

4 September 2024
Response on Behalf of Redrow - 4 September 2024



Local Plans
Charnwood Borough Council
Southfield Road, Loughborough
LE11 2TX

David Bainbridge
E: david.bainbridge@savills.com
DL: +44 (0) 1865 269053

By email to: localplans@charnwood.gov.uk

Wytham Court
11 West Way
Oxford OX2 0QL
T: +44 (0) 1865 269 000
F: +44 (0) 1865 269 001
savills.com

Dear Sir / Madam

**Consultation on the Charnwood Local Plan 2021-2037, Main Modifications
Response on Behalf of Redrow**

I write to provide this response to the above consultation on behalf of my client Redrow.

Background

Across nearly 50 years and over 120,000 homes, Redrow have earned a unique reputation for building premium houses and thriving communities.

Redrow has land interests across Leicestershire including at Leicester, Lubbethorpe and Hugglescote and at Loughborough, Sileby and East Goscote in Charnwood Borough.

We welcome the opportunity to consider and comment on this consultation.

Redrow, working with landowners and representatives, have fully engaged in the examination into the Charnwood Local Plan. In particular, as a constructive and positive objector to the local plan which we consider is unsound and should not be adopted as submitted for examination or now as proposed to be modified.

This engagement includes representations at the Regulation 19 stage and submission of hearing statements. Redrow and advisers from Savills and No.5 Barristers Chambers have participated in relevant examination hearings.

Engagement in the local plan examination has included working with other objectors to the local plan including with Jelson Homes and their advisers at Avison Young.

Chris Young KC at No5 Barristers Chambers is part of the team and has participated in relevant examination hearings for Redrow, Jelson Homes and other relevant parties who all share concerns about the lack of soundness of this local plan. Our response to the main modifications has been informed by advice from Counsel. An additional Opinion has been provided by James Corbet Burcher of No5 Chambers alongside this representation, jointly instructed alongside Jelson Homes.

For the purpose of this response, we have considered the documentation made available by Charnwood Borough Council on the local plan examination website comprising main modifications, updated housing land



supply position and the schedule of proposed changes to policies maps 1 and 2 (acknowledged not to form part of the development plan or proposed main modifications).

We have completed the representation forms for this consultation but due to the need to provide a comprehensive response in one place we consider it is necessary for Charnwood Borough Council and for the Planning Inspectors who are examining this local plan to consider the full extent of this response in this letter and the content of the representation forms which by their nature are shorter in content.

Main Modifications and Further Hearing Sessions

In summary, Redrow consider that there are at least three significant flaws with the local plan as currently drafted, all of which mean that it cannot be found sound in its current form:

- (1) The Plan does not “look ahead over a minimum 15 year period from adoption” and is therefore in breach of NPPF paragraph 22;
- (2) The Plan will not provide for a 5 year housing land supply, for the purposes of NPPF 69a;
- (3) The Plan is premised on a Charnwood Transport Contributions Strategy which is unlawful in its current format and will be the subject of legal challenge if published.

These three points are separate, but all point to the same outcome: the plan has not allocated sufficient land for housing to meet the requirements of national planning policy. It is in breach of the NPPF (2021), which is the relevant policy for the purposes of s19(2)(a) of the Planning and Compulsory Purchase Act 2004 (“PCPA”).

However, the plan is also significantly out of step with the Secretary of State’s and Minister of State’s broader expectations for the plan-making system as set out in the Minister of State’s letter of 30 July 2024, which applies with immediate effect.

Procedurally, we respectfully submit that the only correct option would be further hearings to be scheduled to address each of the three issues above, in accordance with the current (9th) version of the Procedure Guide for Local Plan Examinations (28 August 2024), paragraphs [5.20]-[5.21] and [6.5].

Fundamental Soundness Issues

The fundamental soundness issues with this local plan remain because the main modifications proposed by the Council do not remedy them.

The approach to changes to the submitted plan by the Council can be characterised as being piecemeal, retrospective, regressive and the minimum extent of changes that the Council considers it can make to just get over the line on the tests of soundness.

The Charnwood Local Plan was submitted for examination by Charnwood Borough Council in December 2021 and the first examination hearing was held in June 2022.

Despite exchange of correspondence on preliminary matters between the Planning Inspectors and the Council prior to June 2022, it was announced during the first session that the Council had changed its position on accounting for the unmet housing need of Leicester City in this submitted plan rather than seek an early review to deal with it in years to come.

The Council had previously identified a need for minor modifications to the submitted local plan but with this change brought about a need for main modifications and hence the Council prepared a schedule of proposed main modifications for consideration by the Planning Inspectors.

Examination hearings have taken place in June 2022, October 2022, February 2023 and February 2024. Consultation on the main modifications has only taken place during July to September 2024 which is over two years from first identification of the need for proposed main modifications.

The delay to examination into this local plan is highly regrettable and shows the scale of the fundamental issues of the soundness of this local plan

In our view this strategy has failed and it has compounded the fundamental soundness issues which relate to all of the tests of soundness within the National Planning Policy Framework, as follows:

- The local plan has not been positively prepared. The local plan does not as a minimum meet the area's objectively assessed needs and unmet need from neighbouring areas over a period of at least 15 years from adoption.
- The local plan is not justified, in that it is not an appropriate strategy for delivery of sustainable and deliverable development.
- The local plan is not effective because it does not set a policy framework for delivery of sustainable development including appropriate infrastructure.
- The local plan is not consistent with national policy because it does not enable delivery of sustainable development in accordance with policies in the National Planning Policy Framework.

We have enclosed a copy of The Charnwood Local Plan Local Development Scheme, March 2024 to March 2027, dated March 2024.

We ask that the Inspectors ask that the Council for this to be formally lodged as an Examination Document because it is highly relevant to examination of the submitted local plan. The LDS has significant consequences for this local plan, over and above its obvious relevance for the purposes of s15 and s19(1) PCPA which provides "Development plan documents must be prepared in accordance with the local development scheme"

The Council proposes what it considers to be a reasonable timetable for progressing the new local plan through to the completion of the examination and on towards adoption. Paragraph 3.10 of the LDS states the following:

- Examination hearing sessions conclude – February 2024
- Publication of Inspectors' Final Report – October 2024
- Adoption – November/ December 2024

Paragraph 3.11 of the LDS states the following:

"3.11 The suggested timeline assumes that there are no further examination hearing sessions and that the process subsequently moves toward consultation on modifications without any further impediment."

This shows that the Council assumes there are no further examination hearings, that the Planning Inspectors will publish a final report in October and adoption of the new local plan could be in November or December.

We have concerns over the timescale for this local plan examination and that this situation should not be capable of being repeated going forward under the new expectations by Government. Notwithstanding this, it

is not acceptable that the Council seems intent to rush the examination through to a conclusion without factoring in sufficient time for examination of responses to the main modifications by the Planning Inspectors.

As we shall set out below, we consider it is essential that the Planning Inspectors hold further hearing sessions to address the three substantial issues raised in this submission and by other participants responding to the main modifications.

Charnwood Transport Contributions Strategy Consultation

Between 10 July 2024 and 24 August 2024, Leicestershire County Council conducted a consultation in respect of the Charnwood Transport Contributions Strategy (CTCS). This is directly associated with the draft Local Plan but has been undertaken outside of the local plan main modifications consultation.

We consider the CTCS consultation documents should be put into the local plan examination as formal examination documents. These comprise the following:

- Draft Transport Contributions Strategy for Developments in Charnwood District
- Frequently Asked Questions
- Charnwood Local Plan – Transport Contributions Strategy Viability Report

The proposed policies of the local plan, notably policies INF1 and INF2, refer directly to the subject matter and it should not be separate or outside of the local plan examination process.

We request that Charnwood Borough Council provides the above CTCS documentation to the Planning Inspectors as examination documents and for these to be lodged in the local plan examination library.

We request that Charnwood Borough Council liaises with Leicestershire County Council in respect of making available the responses from Redrow and Jelson (through their consultants, Avison Young) to the CTCS and for these to be lodged also as examination documents. We are also aware that there have been a number of other significant objections from the development industry, and these essentially underscore the legal and evidential flaws in the County Council's position.

Savills on behalf of Redrow, again working alongside wider stakeholders, provided a response to the CTCS consultation.

Savills and Avison Young on behalf of Jelson instructed an Opinion from Paul Tucker KC and Constanze Bell of Kings Chambers, a transport review by ADC Infrastructure and a response by Savills on the viability report. We have enclosed a copy of the full response made on behalf of Redrow and we request that these are lodged as examination documents. For clarity this documentation comprises the following:

- Letter from Savills to Leicestershire County Council, 23 August 2024
- Opinion from Paul Tucker KC and Constanze Bell
- Transport Review Charnwood Local Plan Transport Contributions Strategy, prepared by ADC Infrastructure
- Response to Charnwood Transport Contributions Strategy Viability Report, prepared by Savills

A key aspect of this response relies on the aforementioned Opinion which finds that the CTCS is unlawful in that it tries to introduce what ought to be development plan policy outside of a development plan document. In addition, this Opinion considers that the CTCS is poorly conceived in its content and approach and does not adequately justify the sums sought.

We have requested that Leicestershire County Council does not progress to adoption of the CTCS as a SPD. LCC should instead commence the strategy preparation process again on a proper basis. Our expectation is that the approach to the CTCS will be fundamentally reviewed with options set-out for a policy direction not policy proposed as supplementary guidance.

We request consideration of this by Charnwood Borough Council and by the Planning Inspectors examining the Charnwood Local Plan.

We are aware of the intended response by the HBF to the Main Modifications to the Local Plan. We understand that they will express fundamental concerns over the main modifications and are very concerned that the proposed approach could make housing delivery in Charnwood unviable. We are aligned with the thrust of the pending response by the HBF.

Comments on the Schedule of Proposed Main Modifications

EXAM Document 81 is entitled the 'Pre-Submission Draft Charnwood Local Plan 2021-2037 Schedule of Proposed Main Modifications' and it is dated July 2024.

There is a short opening sentence in this schedule which states the following:

“The following table sets out a series of proposed main modifications to the Pre-submission Draft Charnwood Local Plan 2021-2037 published in July 2021 to ensure that it meets the tests of soundness [footnote 1].”

There is absence of explanation as to what the position is in respect of EXAM 4, which has the same main document title of: “Pre-Submission Draft Charnwood Local Plan 2021-2037 Schedule Of Proposed Main Modifications”

It is requested that the Planning Inspectors seek clarification on this matter and for this position to be published ahead of further examination hearings.

Our comments below respond directly to relevant proposed Main Modifications using the referencing contained in the aforementioned document, including the relevant chapter and/or policy headings.

Chapter 2 Development Strategy

Policy DS1: Development Strategy

MM8 – we object to the use of the term ‘equitable apportionment’ in the context of the unmet need of Leicester City. The process that has led to this local plan more latterly including an element of the unmet need has not been fair and impartial as the term proposed in the main modification suggests. The Leicester and Leicestershire Authorities Statement of Common Ground relating to Housing and Employment Needs should be seen within the statutory duty to co-operate (s33A PCPA) and it comprises an explanation of how the authorities have gone about calculating the unmet need and apportioning it, taking into consideration spatial distribution, evidence of market demand and for this all to be tested through individual local plans.

MM9 – we object to this paragraph and to Table 1: Housing Need and Supply 2021-37 because this does not cover a sufficient plan period of a minimum of 15 years from adoption. The local plan will not provide for a sufficient housing land supply to deliver the planned housing growth over the plan period and we do not consider that there is a deliverable five year supply of housing upon adoption of the local plan. The local housing need proposed is 16 years but commencing in 2021 whereas the plan might not be adopted until late 2024 or 2025.

Additional years should be included in this local plan to at least 2040 with a corresponding increase in local housing need for this to include a buffer within the local housing need beyond the stated 10%.

MM10 – we object to Table 1: Housing Need and Supply 2021-37 for the same reasoning as stated under MM9.

MM11 – we object to Table 2: Local Housing Need and Flexibility for the same reasoning as stated under MM9.

MM18 – we object to Table 5: Development Strategy for Homes 2021 – 2037 for the same reasoning as stated under MM9.

MM22 – our comment here is that it would be helpful for the Council to provide a list as examination document of the sites it considers fall into the category of being consented for development but not in detail and hence will not be included in the proposed Limits to Development.

MM24 – we object to Policy DS1 Revised Text for the same reasoning as stated under MM9.

Policy DS2: Leicester and Leicestershire Unmet Needs

MM25 – we note that the proposed text here does not repeat the phrase ‘equitable apportionment’ which we have objected to under MM8. The proposed text refers to a Statement of Common Ground of May 2022. There has been correspondence and updates on this since then and therefore we request that the latest version is correctly referred to. We object to the lack of certainty in respect of the stated intention of individual local authorities’ assessment of providing for their own objectively assessed needs and any unmet needs and that the common ground statement will be jointly reviewed and updated, as necessary. There is a complete absence of even a simple explanation as to the timescale and methodology for going about this.

MM26 – we note the proposed deletion of Policy DS2 which the Council had intended to be a review policy to address the unmet needs of Leicester City. There is no proposed text for a replacement review policy despite the plan period not being a minimum of 15 years.

Policy DS3: Housing Allocations

MM27 – we object to the proposed new wording. There is no specific reference here to the proposed Charnwood Borough Transport Contributions Strategy which has been the subject of consultation by Leicestershire County Council. However, it is plainly intended that this is a core aspect of the delivery – and one that has not been examined, and indeed which is unlawful for separate reasons. We refer again to our enclosed response to this consultation including the legal opinion. This matter has the potential to undermine delivery of housing from the proposed allocations due to uncertainty over the legality and practicality of seeking an off-site highways tariff from the proposed allocations.

MM28 – we object to the proposed new wording which does not explain whether the proposed net developable areas (darker orange shading) relate to the proposed intensification of housing within the proposed site allocations.

MM29 – we object to Table DS3: Housing Allocations for the same reasoning as explained under MM27 and MM28.

Policy SC1: Service Centres

MM94 – we object to the proposed revised number for the proposed overall distribution among the Service Centres. This is insufficient due to the proposed plan period, the insufficient buffer and the lack of evidence on delivery of the proposed housing allocations as a result of the proposed intensification of housing, the proposed defining of net developable areas on some of the proposed allocations and because of the reliance on the proposed Charnwood Transport Contributions Strategy, whose defects we have listed above and in the attached representations. This is an overarching issue which also informs our response to MM96-97 and MM138-140, MM152-156 and MM157-158.

MM96 – we object to the Charnwood Transport Contributions Strategy for the reasons already stated and as per the enclosed submission.

DM1 and DM10 – we object to the proposed local plan diagrams changes for the reasons already stated.

MM97 - we object to the Charnwood Transport Contributions Strategy for the reasons already stated and as per the enclosed submission.

Policy CC5: Sustainable Transport

MM138 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

MM139 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

MM140 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

Chapter 9 Infrastructure and Delivery

Policy INF1: Infrastructure and Developer Contributions

MM152 – we object to the uncertainty over the proposed funding of infrastructure, including off-site highway works, arising as a result of the proposed allocations and the Charnwood Transport Contributions Strategy. We also object to the uncertainty over the proposal to prepare a Planning Obligations Supplementary Planning Document. There is no timescale given for this and yet there are now applications with resolutions and/or are working their way through the planning system and hence this will impact on the potential for pooling of development funding to free up constraints.

MM154 – we object to the uncertainty over planning obligations brought about as a result of what appears to be a piecemeal approach over different documentation, some development plan policy but mostly not development plan policy. We have submitted an objection to Leicestershire County Council in respect of the consultation in June 2024 on a proposed refresh of their Planning Obligations Policy. We have enclosed a copy of this response on behalf of Redrow, dated 26 June 2024.

MM155 – we object to the proposed deletion of the text: “And that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.” It is an essential part of the current examination that deliverability is assessed, including by reference to “cumulative cost”. This exercise should have been conducted by the Council already. The wording should remain in place.

MM156 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission. Proposed Policy INF1 is unsound as a result of this uncertainty over legality and delivery.

Policy INF2: Local and Strategic Road Network

MM157 and MM158 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission. Proposed Policy INF2 is unsound as a result of this uncertainty over legality and delivery. The proposed changes to Policy INF2 amount to a complete re-writing and are significant in their implications for the potential for delivery from the local plan overall. The evolving strategy for infrastructure arising from proposed development under this local plan has not been sufficiently developed and tested and as a result the proposed changes are ineffective.

Appendix 2: Employment and Housing Trajectory

We note there is no Updated Housing Trajectory within the main document and that this is covered by the separate proposed documentation on housing land supply.

Appendix 3: Infrastructure Schedule

We object to this schedule for the reasoning given under MM138 to MM158.

Comments on the Updated Housing Land Supply Position

The Council has provided four additional documents in support of their five year housing position as of 31st March 2024.

These are Exam 58J: Housing Trajectory Update 2024, Exam 58K: Housing Trajectory Update Notes July 2024, Exam 58L: An Update to Five Year Supply on Adoption May 2024 and Exam 58M: Updated Housing Land Supply Site List April 2024.

Exam 58L concludes that the authority would have a 5 years housing land supply of either 5.01 or 5.62 years supply, upon adoption, via the two methods of calculation (Sedgefield and Liverpool respectively).

We consider that a number of the assumptions and evidence for progress in Exam 58J and Exam 58M, upon which 58J is based, are out of date or overly positive. A large proportion of the evidence is out of date, having been based on the 2022 responses from developers and landowners or from the update at the hearings at the beginning of 2024. This should be updated with the latest evidence.

Delays in Delivery Start Dates

Comparing the latest trajectory (Exam 58J) to the original one submitted for examination in (Exam 11 – April 2022) shows that of the 72 individual allocated sites that are detailed, 61 of these have been subject to a delay in the delivery start date within the plan period, with an average delay of 2.4 years across these sites. Of the remaining 11 sites delivery has been either roughly as expected or in 3 cases brought forwards by a period of 1 -2 years. There is a distinct pattern of continual delay across the vast majority of sites which make up the allocations that are detailed in the trajectory and there is little to no evidence to support a change to this pattern. The latest evidence could indeed show that the delays are now even greater in magnitude.

Windfall

In addition to the evidence above, the windfall calculations have been based on the last few years of windfall in the Borough, however, in this time the Borough has not benefitted from an up to date local plan or five year land supply and therefore has been subject to a higher proportion of windfall sites via the presumption in favour of sustainable development. In the five years following the adoption of the local plan this will not be the case and therefore to base the future figure whilst including this data will cause it to be unrealistically high. This windfall figure was introduced to the calculation of five years supply by the Council in order to bolster the figures once the additional unmet need of Leicester had been agreed to be included in the plan in 2022.

Increase in Unit Numbers

Of the 72 sites in the trajectory, 19 have been subject to uplift in the number of units they can deliver in the plan period, with an average increase of 32 units for each of these sites. The increases were as a result of the Council taking on the unmet need figure for Leicester during the examination process. There has been insufficient evidence to show that these increases are achievable, whilst there is counter evidence where due to technical issues around housing mix, or the levels of the site or other constraints that the densities and numbers originally posited cannot be achieved. For example, Redrow have recently had a refusal for reserved matters on HA60 (Land off Melton Road, East Goscote) whereby the planning application by reasons of housing mix was found to be unsupportable by officers. This application was for a total of 258 units against the 256 units in the latest trajectory (down from 270 in the outline).

Marginal Nature of Supply Figure

The Council's own calculation of five year supply, via the Sedgefield method, of 5.01 years, in light of the continual delays shown over the last 2+ years of evidence provided by the Council, is extremely marginal – to a point that is not credible. Additionally, the overly positive windfalls and unsupported increased in units further call into question the deliverability of the sites detailed in their evidence. The claim that they have a five year supply upon adoption in the face of not being able to deliver schemes in a timely fashion is therefore not credible.

A copy of the latest trajectory (Exam 58J) with an additional column comparing the start date with that of Exam 11 is supplied alongside this letter.

Comments on the Proposed Changes to Policies Maps 1 and 2

EXAM 84 is the Proposed Changes to Pre-Submission Policies Map 1 and Policies Map 2.

We acknowledge that Policies Maps are not defined as being part of the development plan and hence the Planning Inspectors do not examine these but as the document states they are spatial expressions of the policies in the plan.

It follows from the substance of our response to the main modifications that we have objections to the spatial expression of the policies. This comprises concerns over the plan period, the approach to infrastructure and fundamental concerns over delivery from the proposed allocations.

A long plan period and a greater level of housing requirement should be proposed as modifications to this local plan resulting in the need to review the spatial strategy and identify additional land for housing development including at the Service Centres.

Requirement for Further Examination Hearings

For the reasons set out [above], we are very concerned by the intended substantive content of the plan, a plan that (a) will not be for the required duration; (b) which will not provide for a 5YHLS at the point of adoption and (c) is based upon the flawed CTCS approach. We are also very concerned by the procedural aspect of this, namely that we and other stakeholders have been prevented from considering these three specific issues in the examination hearings themselves in the specific circumstances now presented. This is even more acute in the context of an important shift in Governmental policy (post-General Election) in respect of how to address examination.

The Planning Inspectorate's Procedure Guide for Local Plan Examinations, Updated 28 August 2024, states the following under the sub-title 'After the hearing sessions':

"5.20. It might occasionally be necessary for the Inspector to arrange one or more further hearing sessions during the reporting period, for example to resolve a fundamental soundness issue. Significant representations on the proposed MMs might also give rise to the need for further hearings (see Section 6 below)." Paragraph 5.21 further recognises by analogy that the importance of "thorough[h] test[ing] at the hearing sessions", recognising an important distinction between written submissions and the live hearing process.

The above paragraph in the procedure guide refers to section 6, which is entitled 'Main modifications to the plan'. Paragraph 6.10 in this section also refers to further hearing sessions, as follows:

"6.10. The Inspector will consider all the representations made on the proposed MMs before finalising the examination report and the schedule of recommended MMs. Further hearing sessions will not usually be held, unless the Inspector considers them essential to deal with substantial issues raised in the representations, or to ensure fairness."

In the light of the three significant issues identified, we consider it is necessary for the Planning Inspectors to arrange further examination hearings to try to resolve fundamental soundness issues with the Charnwood Local Plan. These fundamental issues are explained in this response to consultation on the main modifications.

We consider the Planning Inspectors should consider at least three further hearing sessions are essential to deal with the three substantial issues raised in this submission and by other participants responding to the main modifications, including Avison Young on behalf of Jelson Homes.

Government's Expectations for Local Plans

We enclose a copy of a letter from Matthew Pennycook MP to Paul Morrison, Chief Executive of The Planning Inspectorate, dated 30 July 2024. The letter has been partially incorporated within the Procedure Guide for Local Plan Examinations (revised 28 August 2024); however, it raises broader issues about the Government's expectations for all plans, including those at examination right now.

Mr Pennycook states that it is essential that local authorities have an up to date local plan in place and he reminds relevant parties of the responsibility of local planning authorities in preparing and submitting local plans for examination and the roles of planning inspectors examining local plans. It is however self-evident that the term "up-to-date" is not merely a pure question of the date of adoption, but also soundness and robustness.

Mr Pennycook therefore states that he wants to empower Inspectors to be able to take the tough decisions they need to at examination, to ensure they can focus their time on those plans that are capable of being found sound and to realise the Government's aim of universal plan coverage.

Going forward, pauses to undertake additional work on local plans at examination should usually take no more than six months overall and any extensions to the six month pause should only be allowed at Inspectors' discretion to deliver adopted local plans under the current system.

At this stage of the examination process and despite the length of the delay in the examination, there remains fundamental issues of the soundness of this local plan, which justify further examination hearings as explained above.

We understand that the broader message of the Minister of State's letter is that Planning Inspectors are now empowered to take the tough decisions they need to at examination, without acceding to historic references to "pragmatism". The Government's intention to ensure examinations focus their time on those plans that are capable of being found sound and to realise the Government's aim of universal plan coverage. This means that Planning Inspectors can and should find local plans unsound where they are incapable of being remedied within a six month pause to the examination.

For completeness we have also included the response letter from Mr Morrison to Mr Pennycook dated 1 August 2024.

It must be acknowledged that there has been a lengthy pause in the examination into the submitted local plan. The Council have used this exact phrase in their update to the programme for the local plan (see text on LDS below) at paragraph 3.9 of the March 2024 LDS they make reference to the pause in the examination.

Conclusion

We have identified fundamental soundness issues with this local plan. The main modifications proposed by the Council do not remedy these fundamental soundness issues.

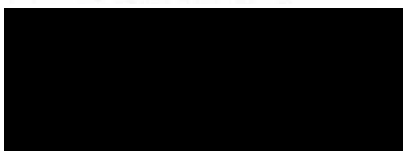
We have made a number of requests within this response including that the Planning Inspectors hold further examination hearings to scrutinise the proposed approach to main modifications. This is justified under the Planning Inspectorate's guide on local plan examinations.

It is necessary for further main modifications to propose additional housing and additional housing sites including Redrow's site south of Sileby.

We ask that the Council provides this letter and all of the enclosures to the Planning Inspectors in full.

We look forward to receiving acknowledgement of receipt of this submission from the Council.

Yours faithfully



David Bainbridge MRTPI
Planning Director



Copy. Clients

Enclosed:

- Main modifications representations forms
- Opinion from James Corbet Burcher, 30 August 2024
- Letter from Savills to Leicestershire County Council, 23 August 2024
- Opinion from Paul Tucker KC and Constanze Bell
- Transport Review Charnwood Local Plan Transport Contributions Strategy, prepared by ADC Infrastructure
- Response to Charnwood Transport Contributions Strategy Viability Report, prepared by Savills
- Letter from Matthew Pennycook MP to Paul Morrison, Chief Executive of The Planning Inspectorate, 30 July 2024
- Letter from Paul Morrison to Matthew Pennycook MP, 1 August 2024
- The Charnwood Local Plan Local Development Scheme, March 2024 to March 2027, dated March 2024
- Response to the Leicestershire County Council Planning Obligations Policy Refresh on behalf of Redrow, dated 26 June 2024
- Exam 58J with an additional column comparing the start date with that of Exam 11



For responding to:

- **Main Modifications**
(EXAM 81-83)
- **Housing Land Supply**
(EXAM 58J – 58M)

Charnwood
harnwood Local
Plan 2021-2037
Main Modifications
Representation Form

Ref:

(For
official use
only)

Please return to Charnwood Borough Council by 5PM on 4th September 2024 by:

- **Email:** localplans@charnwood.gov.uk
- **Post:** Local Plans, Charnwood Borough Council Southfield Road, Loughborough, LE11 2TX

The Privacy Statement can be found at: www.charnwood.gov.uk/privacy

This form has two parts –

Part A – Personal Details: need only be completed once.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

Part A

1. Personal Details*

**If an agent is appointed, please complete only the Title, Name and Organisation (if applicable) boxes below but complete the full contact details of the agent in 2.*

2. Agent's Details (if applicable)

Title	<input type="text"/>	<input type="text" value="Mr"/>
First Name	<input type="text"/>	<input type="text" value="David"/>
Last Name	<input type="text"/>	<input type="text" value="Bainbridge"/>
Job Title (where relevant)	<input type="text"/>	<input type="text" value="Planning Director"/>
Organisation (where relevant)	<input type="text" value="Redrow"/>	<input type="text" value="Savills"/>
Address Line 1	<input type="text"/>	<input type="text" value="Wytham Court"/>
Line 2	<input type="text"/>	<input type="text" value="11 West Way"/>
Line 3	<input type="text"/>	<input type="text" value="Oxford"/>
Line 4	<input type="text"/>	<input type="text"/>
Post Code	<input type="text"/>	<input type="text" value="OX2 0QL"/>
Telephone Number	<input type="text"/>	<input type="text" value="07866885372"/>
E-mail Address (where relevant)	<input type="text"/>	<input type="text" value="david.bainbridge@savills.com"/>

Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

DM1
and
DM1
0

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4.(2) Sound	Yes	<input type="checkbox"/>	No	<input type="checkbox" value="NO"/>

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

DM1 and DM10 – we object to the proposed local plan diagrams changes for the reasons already stated.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the change(s) to the modification you consider necessary to make it legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. You will need to say why each change will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

See above.

(Continue on a separate sheet /expand box if necessary)

7. Please set out any comments that you have on the updated housing land supply documents:

EXAM 58J: Housing Trajectory Update 2024

EXAM 58K: Housing Trajectory Update Notes July 2024

EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

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8.
Signature:

David Bainbridge, Savills

Date:

4
September
2024



For responding to:

- **Main Modifications**
(EXAM 81-83)
- **Housing Land Supply**
(EXAM 58J – 58M)

Charnwood
harnwood Local
Plan 2021-2037
Main Modifications
Representation Form

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E-mail Address (where relevant)	<input type="text"/>	<input type="text" value="david.bainbridge@savills.com"/>

Part B – Please use a separate sheet for each representation

Name or Organisation:

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Modification Reference

See below

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4.(1) Legally compliant	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4.(2) Sound	Yes	<input type="checkbox"/>	No	<input type="checkbox" value="NO"/>

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EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

Comments on the Updated Housing Land Supply Position

The Council has provided four additional documents in support of their five year housing position as of 31st March 2024.

These are Exam 58J: Housing Trajectory Update 2024, Exam 58K: Housing Trajectory Update Notes July 2024, Exam 58L: An Update to Five Year Supply on Adoption May 2024 and Exam 58M: Updated Housing Land Supply Site List April 2024.

Exam 58L concludes that the authority would have a 5 years housing land supply of either 5.01 or 5.62 years supply, upon adoption, via the two methods of calculation (Sedgefield and Liverpool respectively).

We consider that a number of the assumptions and evidence for progress in Exam 58J and Exam 58M, upon which 58J is based, are out of date or overly positive. A large proportion of the evidence is out of date, having been based on the 2022 responses from developers and landowners or from the update at the hearings at the beginning of 2024. This should be updated with the latest evidence.

Delays in Delivery Start Dates

Comparing the latest trajectory (Exam 58J) to the original one submitted for examination in (Exam 11 – April 2022) shows that of the 72 individual allocated sites that are detailed, 61 of these have been subject to a delay in the delivery start date within the plan period, with an average delay of 2.4 years across these sites. Of the remaining 11 sites delivery has been either roughly as expected or in 3 cases brought forwards by a period of 1 -2 years. There is a distinct pattern of continual delay across the vast majority of sites which make up the allocations that are detailed in the trajectory and there is little to no evidence to support a change to this pattern. The latest evidence could indeed show that the delays are now even greater in magnitude.

Windfall

In addition to the evidence above, the windfall calculations have been based on the last few years of windfall in the Borough, however, in this time the Borough has not benefitted from an up to date local plan or five year land supply and therefore has been subject to a higher proportion of windfall sites via the presumption in favour of sustainable development. In the five years following the adoption of the local plan this will not be the case and therefore to base the future figure whilst including this data will cause it to be unrealistically high. This windfall figure was introduced to the calculation of five years supply by the Council in order to bolster the figures once the additional unmet need of Leicester had been agreed to be included in the plan in 2022.

Increase in Unit Numbers

Of the 72 sites in the trajectory, 19 have been subject to uplift in the number of units they can deliver in the plan period, with an average increase of 32 units for each of these sites. The increases were as a result of the Council taking on the unmet need figure for Leicester during the examination process. There has been insufficient evidence to show that these increases are achievable, whilst there is counter evidence where due to technical issues around housing mix, or the levels of the site or other constraints that the densities and numbers originally posited cannot be achieved. For example, Redrow have recently had a refusal for reserved matters on HA60 (Land off Melton Road, East Goscote) whereby the planning application by reasons of housing mix was found to be unsupportable by officers. This application was for a total of 258 units against the 256 units in the latest trajectory (down from 270 in the outline).

Marginal Nature of Supply Figure

The Council's own calculation of five year supply, via the Sedgefield method, of 5.01 years, in light of the continual delays shown over the last 2+ years of evidence provided by the Council, is extremely marginal – to a point that is not credible. Additionally, the overly positive windfalls and unsupported increased in units further call into question the deliverability of the sites detailed in their evidence. The claim that they have a five year supply upon adoption in the face of not being able to deliver schemes in a timely fashion is therefore not credible.

A copy of the latest trajectory (Exam 58J) with an additional column comparing the start date with that of Exam 11 is supplied alongside this letter.

Comments on the Proposed Changes to Policies Maps 1 and 2

EXAM 84 is the Proposed Changes to Pre-Submission Policies Map 1 and Policies Map 2.

We acknowledge that Policies Maps are not defined as being part of the development plan and hence the Planning Inspectors do not examine these but as the document states they are spatial expressions of the policies in the plan.

It follows from the substance of our response to the main modifications that we have objections to the spatial expression of the policies. This comprises concerns over the plan period, the approach to infrastructure and fundamental concerns over delivery from the proposed allocations.

A long plan period and a greater level of housing requirement should be proposed as modifications to this local plan resulting in the need to review the

spatial strategy and identify additional land for housing development including at the Service Centres.

(Continue on a separate sheet /expand box if necessary)

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Part B – Please use a separate sheet for each representation

Name or Organisation:

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Modification Reference

MM8

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

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MM8 – we object to the use of the term 'equitable apportionment' in the context of the unmet need of Leicester City. The process that has led to this local plan more latterly including an element of the unmet need has not been fair and impartial as the term proposed in the main modification suggests. The Leicester and Leicestershire Authorities Statement of Common Ground relating to Housing and Employment Needs should be seen within the statutory duty to co-operate (s33A PCPA) and it comprises an explanation of how the authorities have gone about calculating the unmet need and apportioning it, taking into consideration spatial distribution, evidence of market demand and for this all to be tested through individual local plans.

(Continue on a separate sheet /expand box if necessary)

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Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

MM9

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM9 – we object to this paragraph and to Table 1: Housing Need and Supply 2021-37 because this does not cover a sufficient plan period of a minimum of 15 years from adoption. The local plan will not provide for a sufficient housing land supply to deliver the planned housing growth over the plan period and we do not consider that there is a deliverable five year supply of housing upon adoption of the local plan. The local housing need proposed is 16 years but commencing in 2021 whereas the plan might not be adopted until late 2024 or 2025. Additional years should be included in this local plan to at least 2040 with a corresponding increase in local housing need for this to include a buffer within the local housing need beyond the stated 10%.

(Continue on a separate sheet /expand box if necessary)

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MM1
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No

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Yes

No

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MM10 – we object to Table 1: Housing Need and Supply 2021-37 for the same reasoning as stated under MM9.

(Continue on a separate sheet /expand box if necessary)

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MM1
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MM11 – we object to Table 2: Local Housing Need and Flexibility for the same reasoning as stated under MM9.

(Continue on a separate sheet /expand box if necessary)

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MM18 – we object to Table 5: Development Strategy for Homes 2021 – 2037 for the same reasoning as stated under MM9.

(Continue on a separate sheet /expand box if necessary)

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E-mail Address (where relevant)	<input type="text"/>	<input type="text" value="david.bainbridge@savills.com"/>

Part B – Please use a separate sheet for each representation

Name or Organisation:

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Modification Reference

MM2
2

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM22 – our comment here is that it would be helpful for the Council to provide a list as examination document of the sites it considers fall into the category of being consented for development but not in detail and hence will not be included in the proposed Limits to Development.

(Continue on a separate sheet /expand box if necessary)

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EXAM 58J: Housing Trajectory Update 2024

EXAM 58K: Housing Trajectory Update Notes July 2024

EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

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8.
Signature:

David Bainbridge, Savills

Date:

4
September
2024



For responding to:

- **Main Modifications**
(EXAM 81-83)
- **Housing Land Supply**
(EXAM 58J – 58M)

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Name or Organisation:

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Modification Reference

MM2
4

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4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM24 – we object to Policy DS1 Revised Text for the same reasoning as stated under MM9.

(Continue on a separate sheet /expand box if necessary)

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Name or Organisation:

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Modification Reference

MM2
5

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Yes

No

4.(2) Sound

Yes

No

 NO

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MM25 – we note that the proposed text here does not repeat the phrase 'equitable apportionment' which we have objected to under MM8. The proposed text refers to a Statement of Common Ground of May 2022. There has been correspondence and updates on this since then and therefore we request that the latest version is correctly referred to. We object to the lack of certainty in respect of the stated intention of individual local authorities' assessment of providing for their own objectively assessed needs and any unmet needs and that the common ground statement will be jointly reviewed and updated, as necessary. There is a complete absence of even a simple explanation as to the timescale and methodology for going about this.

(Continue on a separate sheet /expand box if necessary)

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Modification Reference

MM2
6

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Yes

No

4.(2) Sound

Yes

No

 NO

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM26 – we note the proposed deletion of Policy DS2 which the Council had intended to be a review policy to address the unmet needs of Leicester City. There is no proposed text for a replacement review policy despite the plan period not being a minimum of 15 years.

(Continue on a separate sheet /expand box if necessary)

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Modification Reference

MM2
7

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4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM27 – we object to the proposed new wording. There is no specific reference here to the proposed Charnwood Borough Transport Contributions Strategy which has been the subject of consultation by Leicestershire County Council. However, it is plainly intended that this is a core aspect of the delivery – and one that has not been examined, and indeed which is unlawful for separate reasons. We refer again to our enclosed response to this consultation including the legal opinion. This matter has the potential to undermine delivery of housing from the proposed allocations due to uncertainty over the legality and practicality of seeking an off-site highways tariff from the proposed allocations.

(Continue on a separate sheet /expand box if necessary)

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8

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MM28 – we object to the proposed new wording which does not explain whether the proposed net developable areas (darker orange shading) relate to the proposed intensification of housing within the proposed site allocations.

(Continue on a separate sheet /expand box if necessary)

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9

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MM29 – we object to Table DS3: Housing Allocations for the same reasoning as explained under MM27 and MM28.

(Continue on a separate sheet /expand box if necessary)

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E-mail Address (where relevant)	<input type="text"/>	<input type="text" value="david.bainbridge@savills.com"/>

Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

MM9
4

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM94 – we object to the proposed revised number for the proposed overall distribution among the Service Centres. This is insufficient due to the proposed plan period, the insufficient buffer and the lack of evidence on delivery of the proposed housing allocations as a result of the proposed intensification of housing, the proposed defining of net developable areas on some of the proposed allocations and because of the reliance on the proposed Charnwood Transport Contributions Strategy, whose defects we have listed above and in the attached representations. This is an overarching issue which also informs our response to MM96-97 and MM138-140, MM152-156 and MM157-158.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the change(s) to the modification you consider necessary to make it legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. You will need to say why each change will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

See above.

(Continue on a separate sheet /expand box if necessary)

7. Please set out any comments that you have on the updated housing land supply documents:

- EXAM 58J: Housing Trajectory Update 2024
- EXAM 58K: Housing Trajectory Update Notes July 2024
- EXAM 58L: Update to Five Year Supply on Adoption May 2024
- EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

8. Signature: David Bainbridge, Savills Date: 4
Sept
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2024



For responding to:

- **Main Modifications**
(EXAM 81-83)
- **Housing Land Supply**
(EXAM 58J – 58M)

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Last Name	<input type="text"/>	<input type="text" value="Bainbridge"/>
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Modification Reference

MM9
6

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4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM96 – we object to the Charnwood Transport Contributions Strategy for the reasons already stated and as per the enclosed submission.

(Continue on a separate sheet /expand box if necessary)

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See above.

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EXAM 58K: Housing Trajectory Update Notes July 2024

EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

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Signature:

David Bainbridge, Savills

Date:

4
September
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Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

MM9
7

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM97 - we object to the Charnwood Transport Contributions Strategy for the reasons already stated and as per the enclosed submission.

(Continue on a separate sheet /expand box if necessary)

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EXAM 58M: Updated Housing Land Supply Site List April 2024

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David Bainbridge, Savills

Date:

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Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

MM1
38

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM138 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

(Continue on a separate sheet /expand box if necessary)

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EXAM 58M: Updated Housing Land Supply Site List April 2024

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David Bainbridge, Savills

Date:

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Part B – Please use a separate sheet for each representation

Name or Organisation:

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Modification Reference

MM1
39

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM139 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

(Continue on a separate sheet /expand box if necessary)

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EXAM 58K: Housing Trajectory Update Notes July 2024

EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

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Date:

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Name or Organisation:

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Modification Reference

MM1
40

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

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MM140 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission.

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2024



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Name or Organisation:

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Modification Reference

MM1
52

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

 NO

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM152 – we object to the uncertainty over the proposed funding of infrastructure, including off-site highway works, arising as a result of the proposed allocations and the Charnwood Transport Contributions Strategy. We also object to the uncertainty over the proposal to prepare a Planning Obligations Supplementary Planning Document. There is no timescale given for this and yet there are now applications with resolutions and/or are working their way through the planning system and hence this will impact on the potential for pooling of development funding to free up constraints.

(Continue on a separate sheet /expand box if necessary)

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Date:

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Name or Organisation:

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Modification Reference

MM1
54

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Yes

No

4.(2) Sound

Yes

No

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible.

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM154 – we object to the uncertainty over planning obligations brought about as a result of what appears to be a piecemeal approach over different documentation, some development plan policy but mostly not development plan policy. We have submitted an objection to Leicestershire County Council in respect of the consultation in June 2024 on a proposed refresh of their Planning Obligations Policy. We have enclosed a copy of this response on behalf of Redrow, dated 26 June 2024.

(Continue on a separate sheet /expand box if necessary)

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**If an agent is appointed, please complete only the Title, Name and Organisation (if applicable) boxes below but complete the full contact details of the agent in 2.*

2. Agent's Details (if applicable)

Title	<input type="text"/>	Mr
First Name	<input type="text"/>	David
Last Name	<input type="text"/>	Bainbridge
Job Title (where relevant)	<input type="text"/>	Planning Director
Organisation (where relevant)	Redrow	Savills
Address Line 1	<input type="text"/>	Wytham Court
Line 2	<input type="text"/>	11 West Way
Line 3	<input type="text"/>	Oxford
Line 4	<input type="text"/>	
Post Code	<input type="text"/>	OX2 0QL
Telephone Number	<input type="text"/>	07866885372
E-mail Address (where relevant)	<input type="text"/>	david.bainbridge@savills.com

Part B – Please use a separate sheet for each representation

Name or Organisation:

3. To which modification to the Local Plan or to the Local Plan diagrams does this representation relate?

Modification Reference

MM1
55

4. Do you consider the modification is (please tick as appropriate):

4.(1) Legally compliant

Yes

No

4.(2) Sound

Yes

No

5. Please give details of why you consider the modification is not legally compliant or is unsound. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the modification, please also use this box to set out your comments.

Please refer to letter from Savills dated 4 September 2024 and attachments.

MM155 – we object to the proposed deletion of the text: “And that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.” It is an essential part of the current examination that deliverability is assessed, including by reference to “cumulative cost”. This exercise should have been conducted by the Council already. The wording should remain in place.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the change(s) to the modification you consider necessary to make it legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. You will need to say why each change will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

See above.

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7. Please set out any comments that you have on the updated housing land supply documents:

EXAM 58J: Housing Trajectory Update 2024

EXAM 58K: Housing Trajectory Update Notes July 2024

EXAM 58L: Update to Five Year Supply on Adoption May 2024

EXAM 58M: Updated Housing Land Supply Site List April 2024

(Continue on a separate sheet /expand box if necessary)

Please note *In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.*

8. Signature:

David Bainbridge, Savills

Date:

4
Septe
mber
2024



Charnwood
Charnwood Local
Plan 2021-2037
Main Modifications
Representation Form

For responding to:

- **Main Modifications**
(EXAM 81-83)
- **Housing Land Supply**
(EXAM 58J – 58M)

Ref:

(For
official use
only)

Please return to Charnwood Borough Council by 5PM on 4th September 2024 by:

- **Email:** localplans@charnwood.gov.uk
- **Post:** Local Plans, Charnwood Borough Council Southfield Road, Loughborough, LE11 2TX

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No

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Yes

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM156 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission. Proposed Policy INF1 is unsound as a result of this uncertainty over legality and delivery.

(Continue on a separate sheet /expand box if necessary)

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David Bainbridge, Savills

Date:

4
September
2024



Charnwood
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57

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No

4.(2) Sound

Yes

No

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Please refer to letter from Savills dated 4 September 2024 and attachments.

MM157 and MM158 - we object to the Charnwood Transport Contributions Strategy for the reasoning already stated and as per the enclosed submission. Proposed Policy INF2 is unsound as a result of this uncertainty over legality and delivery. The proposed changes to Policy INF2 amount to a complete re-writing and are significant in their implications for the potential for delivery from the local plan overall. The evolving strategy for infrastructure arising from proposed development under this local plan has not been sufficiently developed and tested and as a result the proposed changes are ineffective.

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58

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4.(2) Sound

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8. Signature: David Bainbridge, Savills Date: 4
September
2024

IN THE MATTER OF THE TOWN AND COUNTRY PLANNING ACT 1990

AND THE CHARNWOOD LOCAL PLAN

OPINION

Introduction

1. I am instructed by Redrow Homes (“Redrow”) and Jelson Homes (“Jelson”), through their respective consultants, Savills and Avison Young, to advise in respect of the draft Charnwood Local Plan 2021-37 (“the Draft Local Plan”) which is presently being examined under s20 of the Planning and Compulsory Purchase Act 2004 (“PCPA”).

2. Specifically, I am asked to advise on three substantive soundness failures:
 - (1) The plan period post-adoption, which will not be for the necessary minimum 15 year period after adoption as required by NPPF 22;

 - (2) The housing land supply for the first five years post-adoption, in the light of additional evidence submitted after the hearing sessions;

 - (3) The plan’s approach to infrastructure and contributions, especially the consequences of the Charnwood Transport Contributions Strategy, which was subject to consultation up to 23 August 2024.

3. Procedurally, I am then asked to advise whether it would be necessary to hold further examination sessions, in accordance with paragraphs 5.20 and 6.10 of the recently updated Procedure Guide for Local Plan Examinations (9th edition, dated 28 August 2024), in which the consequences of the above issues could be explored further and the necessary further main modifications considered.

4. All of this requires consideration in the specific new context set by the Letter of the Minister of State (dated 30 July 2024), in which the new Government’s approach to

examination procedure has been explained. This evidently post-dates the start of the present consultation.

Factual, Legal and Policy Background

5. I shall address the specific factual, legal and policy matters under each of the three headings. The plan history will be well-known to those instructing.

Issue 1: Plan Period

2037 End Date: 12 Years from Adoption

6. The Draft Local Plan has a plan period date of 2021-37. That end date of 2037 is referred to throughout the document. Most notably, Policy DS1 sets the Spatial Strategy up to 2037 and specifies both the overall requirement (19,024) and the minimum number of homes required in the individual areas. Policy DS3 has also made allocations by express reference to that requirement and strategy. No further allocations have been made to address needs beyond that point through 2038, 2039 and 2040.
7. The Draft Local Plan was submitted for examination on 3 December 2021 and accordingly the current examination has been conducted under the NPPF (2021). NPPF (2021) 22 (and its successor in NPPF (2023)) provides (so far as applicable and with all underling and bold emphasis added both here and below):

*“Strategic policies should look ahead over a **minimum 15 year period from adoption**, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.”*

8. The Council has now indicated in its Local Development Scheme that it wishes to seek the necessary resolution at the end of 2024. However, the likely elapse of time (following upon earlier delays) would make any hypothetical resolution impossible prior to 2025.

9. At the date of adoption, the Draft Local Plan will not contain strategic policies that look ahead 15 years from the date of adoption. The strategic policies will only look ahead 12 years.
10. This issue is not addressed through the Main Modifications.

NPPF 22

11. NPPF 22 was specifically altered on 24 July 2018 from the 2012 wording:

157. Crucially, Local Plans should:

- *plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this Framework;*
- *be drawn up over an appropriate time scale, **preferably a 15-year time horizon**, take account of longer term requirements, and be kept up to date;*

12. The original NPPF 22 change was a response to a specific recommendation by the Local Plans Expert Group in their Report to the Communities Secretary and the Minister of Housing and Planning (March 2016), Summary Recommendation S38:¹

“S38. Importantly, however, we particularly recommend that local plans must generate the confidence that they are planning sustainability over the full local plan period (at least 15 years).”

13. Appendix A Main Recommendations paragraph 41 also stated:

41. Boosting supply – To boost significantly the supply of housing paragraph 47 of the NPPF should be amended to require:

- i. Local Plans should identify a housing requirement with sufficient deliverable or developable sites or broad locations to meet full objectively assessed housing need (FOAHN) over the full plan period for their local area, including any unmet need from within or beyond the Housing Market Area, plus an additional allowance for flexibility appropriate to local circumstances, as far as is consistent with the policies set out in this Framework.*

¹ <https://assets.publishing.service.gov.uk/media/5a81813aed915d74e33fe924/Local-plans-report-to-governement.pdf>

ii. Local Plans should make a further allowance; equivalent to 20% of their housing requirement, in developable reserve sites as far as is consistent with the policies set out in this Framework, for a **minimum fifteen year period from the date of plan adoption**, including the first five years (this recommendation does not apply where it has been demonstrated that a local authority does not have sufficient environmental capacity to exceed its local plan requirement). The purpose of reserve sites is to provide extra flexibility to respond to change (for example, to address unmet needs) and/or to help address any actions required as a result of the Government's proposed housing delivery test.

iii. Local Plans should contain a policy mechanism for the release of reserve sites in the event that monitoring concludes that there is less than 5 years housing land supply or there is a need to address unmet needs;

iv. Local Plans should be supported by a Housing Implementation Strategy ("the HIS") that illustrates the expected rate of housing delivery through a housing trajectory for the whole of the plan period (**at least fifteen years**) and also sets out the mechanisms by which the local authority will manage delivery of a five-year supply of housing land to meet its housing requirement.

14. The Government then set out in its March 2018 version the precise wording now in NPPF 22: "a minimum 15 year period from adoption". The two terms are very clear, the term is a minimum figure and it starts at the date of adoption, which is statutorily the date of the authority's resolution, see section 23(5) PCPA:

*"(5) A document is adopted for the purposes of this section if it is adopted **by resolution** of the authority."*

15. There is (and has never been) any PPG provision that qualifies that term "from adoption".
16. In short, NPPF 22 does not allow for any shorter period post-adoption to be chosen for the strategic policies. This was a distinct change made from the NPPF 2012 wording which referred to a "15-year time horizon" being merely "preferable".

Inspector's Questions and Council's Response

17. The Inspectors first raised this issue in their original Question 1.21 "1.21 Are any adjustments to the Plan period necessary for consistency with the NPPF's provision that strategic policies should look ahead for a minimum 15 year period from adoption?". The

Council's response (March 2022) was over-optimistic and rapidly proven wrong by further plan delays into 2023 and now, deep into 2024:

1.21.1. The Plan period remains justified. The Plan period is from 2021 to 2037 and adoption before the end of 2022 would provide for it to look ahead for 15 years at that point. The Local Development Scheme (LDS) submitted with the Local Plan (SD/16) sets out an anticipated adoption date of October 2022 based on submission in October 2021. The Plan was ultimately submitted in December 2021 which still allowed for a period of 12 months between submission and adoption before the end of 2022. An updated LDS was approved by the Council's Cabinet and published in April 2022. This sets out an updated anticipated adoption date of December 2022 or January 2023 based on the hearing sessions beginning in July 2022. Achieving adoption before the end of 2022 and therefore a 15-year period for the Plan on adoption remains achievable but the Borough Council acknowledges that there is scope for an unanticipated matter to arise and cause delay.

1.21.2. Should it not be possible to adopt the Plan before the end of 2022, the Borough Council believes that it would still be reasonable for the Plan with its current Plan period to proceed to adoption. This because of the significant benefits of having a plan in place and the closeness to 15 years that the Plan would still look ahead. The Borough Council is aware of other cases where this approach has been followed. The North East of Leicester and West of Loughborough Sustainable Urban Extensions allocated in the Plan would continue to deliver homes beyond the end of the Plan period and the Plan allocates a significant amount of employment land. In addition to the general requirement to review plans every five years, the Plan includes a policy to trigger an early review when the apportionment of unmet housing or employment need within the Housing Market Area/Functional Economic Market Area arises.

18. Paragraph 1.21.2 was notably brief, referring simply what would be "reasonable" as opposed to the strict policy wording of the NPPF. NPPF 22 allows for no exception and thus the idea of simply breaching the policy requirement was not something that could be excused in this way.
19. The Inspectors again raised this issue in their Supplementary Question "1. Are any adjustments to the Plan period (2021 – 2037) necessary to accord with NPPF paragraph 22 which states that strategic policies should look ahead for a minimum 15-year period from adoption, having regard to the delays in the Examination process?"
20. The Council's response (January 2023) recorded a generalised wish to avoid delayed adoption, but again did not squarely address the terms of NPPF 22:

The Council's written statement to Matter 1 question 21 sets out the reasons why it would be reasonable to proceed to adoption in 2023 with the plan period to 2037. In addition, to the points that have already been made, the Council considers its approach to adopt a Local Plan without further delay, is in line with government objectives set in written ministerial statements (EXAM15 Appendix J), it is the most effective means of significantly boosting the supply of housing in the borough and is therefore fully in line with a key objective within the NPPF. The preparation of any Local Plan requires the preparation of extensive range of supporting evidence and making sure this is up to date at submission and over the examination of the Local Plan is challenging. Making adjustments to the plan period would therefore introduce risks that parts of the evidence become out of date.

There are examples of Local Plans being adopted with less than 15-year plan period where the Local Plan inspector in each case will have reached a balanced judgement against paragraph 22 of the NPPF. The Hart Local Plan Inspector's report (February 2020) considered this issue at paragraph 33 – (the wording of paragraph 22 of NPPF at this time was the same 2021 NPPF). (Charnwood Matter 10 Statement Appendix 1). The Local Plan Inspector's report for the Royal Borough of Windsor & Maidenhead Council February 2022 found the Plan to be sound with a plan period running to 2033. (See Appendix 1 to this Statement).

21. Neither of the Council's two examples are applicable, and the Council's reference to them raises significant further questions about its intended approach here.
22. The Hart Local Plan Inspector's findings were published on 10 February 2020 and were based on the 2012 wording: NPPF (2012) 157:

32. There has been some suggestion that the Plan period should be extended. The Plan looks forward 13 years after anticipated adoption, which is below the preferred 15 year time period set out in Paragraph 157 of the NPPF. However, the NPPF's preference is not a set requirement and I consider 13 years to be an appropriate time scale in this instance, particularly as there is now a requirement to review plans every five years.

23. The Windsor and Maidenhead Inspector's Report also makes clear that it was assessed against the NPPF (2012), paragraphs 1 and 2, and the express terms of NPPF 22 were not addressed at all.

Existing Submissions and Error of Law

24. For present purposes, I shall not summarise again the detailed, repeated and consistent submissions made by both Savills and Avison Young in their respective hearing statements as to all the practical and methodological reasons why NPPF 22

must be applied correctly, from the date of adoption – notwithstanding delays to the examination process.

25. The simple point is that the correct interpretation of NPPF 22 is ultimately a matter of law. Those acting on behalf of Redrow and Jelson (and a considerable number of other participants) have all identified that there will be a clear breach of NPPF 22, and the Council's position that it can simply overlook NPPF 22 is incorrect, and to a very significant extent.
26. Again for present purposes, I need not summarise the extensive case law in respect of the interpretation of the NPPF at examination. As far back as *Gallagher Homes v Solihull MBC* [2014] EWCA Civ 1610, on appeal from [2014] EWHC 1283 (Admin), the courts have been clear that the NPPF must be interpreted correctly.
27. The Council's answer to this has not addressed the strict terms of NPPF 22 at all. They have instead repeatedly referred to a wider wish to have the plan adopted notwithstanding the breach. However that falls a long way short of compliance with NPPF 19(2)(a).
28. On this basis alone, the Local Plan is not sound, as presently drafted and the Main Modifications have entirely failed to address a central issue.

Consequences

29. If the plan were to proceed to adoption, this would form a clear basis for a legal challenge by way of s113 PCPA on the basis that (a) the document is not within the appropriate power.
30. I shall return below to the question of further hearings and how this new issue (including the sheer length of the disparity with the 15 year requirement) provides the basis for re-opening the hearings post-Main Modifications.

Issue 2: Housing Land Supply

NPPF 68 and 74: Five year Supply of Deliverable Sites

31. Under NPPF (2021) 68 (now NPPF (2023) 69a):

68. Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

a) specific, deliverable sites for years one to five of the plan period.

32. NPPF (2021) 74 in turn provides:

74. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies.

33. The definition of deliverable is set out in the Glossary, and has been summarised in the Avison Young submissions.

Council's EXAM 58K, L and M and New Information

34. By their letter of 22 March 2024 (EXAM 80), the Inspectors asked the Council to update the examination documents, as follows:

4. In advance of the Matter 7 hearing session, the Council updated the housing land supply information in the suite of documents in Exam 58 to the end date of 31.12.23. Although representors had an opportunity to provide comments on the updated information at the Matter 7 hearing sessions, it has not been possible for representors to submit comments in writing.

As the end of the 2023/24 monitoring year is now imminent, the Council should update the information in the Exam 58 suite of documents to reflect completions and commitments as at 31.3.24. The updated documents should be made available for consultation alongside the consultation on the main modifications to the Plan.

35. The result is the various EXAM 58K, L and M documents.

36. Both Savills and Avison Young have analysed the updated housing land supply information on a site by site basis and their calculations are set out in the Avison

Young Statement at [paragraph 3.7, Table] and the attached Appendix 1, Excel spreadsheet.

37. EXAM 58L identifies an extremely marginal 5.01 years supply, applying the Sedgefield method, i.e. by just 13 dwellings. That serves as an immediate warning as to the limited margin for error in the housing land supply exercise. However, in any event, the evidence overwhelmingly points to a much greater shortfall.
38. As their submissions have made clear, there are numerous aspects to the housing land supply that are not merely new, but unexplained. These include significant delays to applications and grants of permission, arising across a range of sites and for diverse reasons. Much of this has involved sharp changes of position even within 12-18 months from the position at the time of the 2023 hearing sessions.
39. The scale of the deficit identified by Avison Young and Savills – at 3.89 years – is therefore very significant, in circumstances where the supply is already extremely marginal.

Consequences

40. The evidence, as now updated, does not confirm that there will be the requisite five year supply of deliverable sites. Indeed, it points in exactly the opposite direction – a supply that falls well short of 5 years.
41. On this basis alone, there is again a pressing for the matter to be reconsidered at further hearing sessions, notably because so much of the material provided by the Council is new, and of a character that is necessarily detailed and best capable of being interrogated in open session.

Issue 3: Infrastructure

The CTCS Consultation and Counsel's Opinion

42. Savills and Avison Young's representations refer to the Opinion of Paul Tucker KC and Constanze Bell which has been submitted to Charnwood Transport Contributions Strategy ("CTCS") for consultation (on 23 August 2024). They have asked for this document to be submitted to the examination. It raises a number of highly relevant matters not just for the CTCS exercise, but ultimately the present examination.
43. In summary, that Opinion explains comprehensively that the CTCS preparation has been based upon a fundamental error of law in respect of the scope of such a document. Reference has been made in detailed terms to the historic case law on the limits of SPDs, including notably *William Davis Ltd v Charnwood BC* [2017] EWHC 3006 (Admin) and *R. (on the application of Skipton Properties Ltd) v Craven DC* [2017] EWHC 534 (Admin) which significantly constrain the scope of an SPD. They also note a number of other broader administrative law principles that are being contravened by the CTCS, not least the lack of an appropriate evidence base and an attempt to replicate CIL without statutory authority.
44. Notably, they also refer to the Settlement Agreement (dated 8 June 2023), concluded in judicial review litigation brought by Barratt David Wilson (BDW) against the County Council in respect of seeking developer contributions pursuant to its Interim Strategy. There is an important recent local history of positions being adopted that cannot withstand legal challenge. This is a continuation of that history.

Judicial Review of the CTCS

45. I agree with the conclusions of the Opinion in full. It is evident that, if published, CTCS would be the subject of immediate judicial review litigation and would relatively rapidly be quashed by the court at a final hearing, assuming that the County Council were not to concede to judgment early.

The Significance of the CTCS to INF1 and INF2

46. It is in that complex territory that INF1 and INF2 now fall to be assessed.

47. The Borough Council have at the same time both raised the CTCS in the examination and yet refused to submit it. They have evidently relied upon it, as part of their justification for INF1 and INF2 as drafted.

48. The Inspector's letter of 22 March 2024 (EXAM 80) observed:

5. There was discussion at the hearing session under Matter 8 on 21 February 2024 around whether the Council would be seeking to produce a Supplementary Planning Document (SPD) or a Development Plan Document (DPD) as the basis for securing developer contributions. In the absence of a Community Infrastructure Levy (CIL), the mechanism for securing developer contributions to transport infrastructure needs to be clear and secure. We would ask the Council to provide clarification on and justification for its preferred approach. However, it is our view that the most secure way to achieve the desired outcome would be through a DPD.

6. Policy INF1 is subject to a main modification (Main8.d). Following evidence from Leicestershire County Council at the session on Matter 9 on 22 February 2024, a further change is necessary to ensure that the policy and supporting text seek to secure developer contributions that reflect the priorities for infrastructure.

49. The Council responded on 14 April 2024 (EXAM 80A):

5. Securing Developer Contributions

With regard to the approach to securing developer contributions, the Council's preferred approach is secure this through a Supplementary Planning Document (SPD) for the following reasons:

The document will build upon and provide more detailed guidance on the application of Local Plan policies INF1 and INF2. That is ordinarily the function of an SPD, not a Development Plan Document (DPD) (which would normally embody a new suite of policies and proposals).

The preparation of both the Transport Contributions Strategy and the Planning Obligations SPD will incorporate the evidence base that has been tested through the examination, the preparation of a separate DPD would require its own evidence base. There is an urgency to completing the policy framework for securing contributions to infrastructure, given that two thirds of the local plan allocations either have the benefit of planning permission or a submitted planning application, it is therefore important that contributions can be sought as soon as possible within the plan period. This is better served by the more streamlined process for the preparation of an SPD.

It would be easier to keep an SPD up to date, and that is the experience of other SPDs which have been prepared for a similar purpose. The preparation of SPD is a tried and tested approach and has been demonstrated that it works.

From a development management perspective, an SPD will carry just as much weight as a DPD, not least because it will be easier to keep up to date as costs change.

Finally, it should be noted that Leicestershire County Council are in the final stages of preparing the Transport Contributions Strategy and are due to consult on the draft document later in the spring. The Council have committed to preparing a Planning Obligations Supplementary Planning Document within the adopted Local Development Scheme 2024-2027. These two documents together will build upon and provide more detailed guidance regarding the application of Local Plan policies INF1 and INF2.

50. The Council therefore have an “in principle” approach that they wish to defer the topic to an SPD. In practice, the CTCS has formed a crucial part of their assessment process, even whilst it has been kept away from the present examination.

Lack of Evidence and Incorrect Presentation of Role of SPD

51. There are myriad problems with the Council’s intended approach, as recorded above and as now revealed through the publication of CTCS for consultation: both substantively and procedurally.
52. Substantively, the Council have not provided the requisite evidence to this examination as to what the contributions will be, why they are justified and how they will impact on the deliverability of multiple sites that are central to the plan’s strategy.
53. As a sub-point, the Council have done nothing to address the Inspector’s observation in EXAM 80 that “the most secure way to achieve the desired outcome would be through a DPD”.
54. The Council’s explanation for this is something of an echo of their response to Issue 1 above: wrong in law, and with respect, diverting from the very real evidential gap. It is not the function of an SPD to “*build upon and provide more detailed guidance on the application of Local Plan policies INF1 and INF2*” where the SPD seeks to impose contributions at amounts that have not been tested at examination. As Counsel’s Opinion submitted to the CTCS has observed, an SPD cannot seek to supplant a

DPD. It has not had the parallel examination of a DPD, and therefore has not been assessed for robustness.

55. The Council's explanation therefore contains a series of statements that are wrong in principle or where examples are suggested but not actually cited.
56. In particular, it is said that "*an SPD will carry just as much weight as a DPD*". An SPD does not carry s38(6) PCPA force and therefore cannot as a matter of law attract the same weight.
57. It is also said that "*The preparation of SPD is a tried and tested approach*". No example is given, and the detailed case law summarised in the parallel Counsel Opinion – including *William Davis v Charnwood BC* and *Skipton Properties v Craven DC* actually point directly the opposite way. As the Inspectors have observed: the most secure way is through the DPD route.

Main Modifications to INF1 and INF2

58. The submissions of Savills and Avison Young have analysed the terms of INF1 and INF2 as proposed to be modified. In summary, the resulting text is neither clear, nor can it be sound. MM156 introduces text that is striking in its vagueness and refers to an Appendix 3 which is both incomplete in respect of the description of infrastructure and does not align with the CTCs. The multiple references to Transport Strategies in MM158 and the earlier MMs 74, 75, 84, 92, 96, 97, 101, and 138 also refer in the vaguest of terms to a coordinated approach and an effective package of interventions. These sit alongside the difficulties that arise from the proposal to pool contributions under MM152 and MM156.
59. All of this points to a central flaw in the Borough Council's approach, compounded by the approach of the County Council.
60. Put simply, they have not submitted the necessary evidence to the examination in respect of transport infrastructure matters, nor explored how this will affect allocations. This in turn has significant implications for housing land supply in the first five years (as raised in Issue 2) above.

Parallel Challenge to CTCS

61. For now, the Borough Council and this examination are faced with a significant procedural challenge. In practice, the Council have referred to the CTCS document, even if it has not been submitted.
62. If it is published, then it will be subject to legal challenge (and indeed a quashing order) in due course.
63. If a decision is taken not to publish, the CTCS, then this merely confirms the correctness of Redrow and Jelson's position on the lack of an appropriate basis for INF1 and INF2.
64. In any event, all of this is new information which has arisen long after the hearing sessions closed and indeed some time after EXAM 80.
65. Therefore, again on this ground alone, there is a pressing need for hearing sessions to be re-opened, notwithstanding the current Main Modifications exercise.
66. Put another way, the Main Modifications do not address a fundamental soundness issue and, with respect, entirely overlook the significance of the flaws within INF1 and INF2.

Hearing Sessions

67. I turn then to the question of procedure and the justification for hearings across all three issues.
68. The Procedure Guide for Local Plan Examinations notes at [5.20]

5.20. It might occasionally be necessary for the Inspector to arrange one or more further hearing sessions during the reporting period, for example to resolve a fundamental soundness issue. Significant representations on the proposed MMs might also give rise to the need for further hearings (see Section 6 below).

69. Section 6 then includes [6.10]:

6.10. The Inspector will consider all the representations made on the proposed MMs before finalising the examination report and the schedule of recommended MMs. Further hearing sessions will not usually be held, unless the Inspector considers them essential to deal with substantial issues raised in the representations, or to ensure fairness.

70. There is a recognition in [5.21] of the specific importance of testing certain matters (“problems”) through hearing sessions, and the way in which issues may arise over the course of an examination that necessitate further such sessions: *“In some cases, however, it may not be possible for the Inspector to determine whether or not such problems exist until the evidence has been thoroughly tested at the hearing sessions.”*

71. The Minister of State’s letter also signals the end to an earlier era of Government instruction to apply “pragmatism” to the examination exercise, in circumstances where this might defer consideration of fundamental soundness failings:

“I also want to empower Inspectors to be able to take the tough decisions they need to at examination, to ensure they can focus their time on those plans that are capable of being found sound and to realise this Government's aim of universal plan coverage.”

72. At present, it is uncertain precisely how long it will take to resolve the fundamental soundness failings of this plan.

73. What is clear is that the Council has adopted three separate positions (1) on plan period; (2) on 5 year housing land supply and (3) on infrastructure, that are directly contrary to national policy, or tied to an evidence base which is demonstrably not robust. Indeed, in the latter respect (3), the intended approach is in effect tied to a separate document/process that is unlawful.

74. The [5.20] and [6.10] criteria for re-opened hearings are thus met in this case: (a) to seek to resolve a fundamental soundness issue, (b) to address significant representations; (c) to deal with substantial issues raised in the representations, and (d) in all the circumstances, to ensure fairness.

75. I make clear again that none of the flaws are necessarily capable of being addressed through a specific course of action that can be addressed in 6 months or less, in accordance with the Minister of State's letter.
76. However, the re-opening of such hearings remains in effect the only procedurally pragmatic step for this examination.
77. It would allow all participants an appropriate format in which to consider and make submissions on each of these important issues, recognising the extent of the new material and the seriousness of the issues. It would take account of the parallel events with the CTCS which are ultimately central to the future of the Draft Local Plan.
78. In the absence of such hearings, participants including Redrow and Jelson would also have been significantly procedurally disadvantaged, in being required to make detailed submissions only at the Main Modifications stage on a draft plan and an evidence base that has moved on considerably since the last set of hearings.

Conclusion

79. In conclusion, my advice is that:

- (1) The Plan cannot lawfully be adopted in circumstances where it will cover well short of the minimum 15 year period after the date of adoption, as required by NPPF 22;

- (2) On the basis of the Avison Young analysis, which should be scrutinised closely, the Plan cannot be found to be capable of providing for the necessary five year housing land supply under NPPF 68a and 74. Again a decision to proceed in the face of overwhelming evidence of a shortfall would amount to an error of law;

- (3) The plan's approach to infrastructure and contributions is impermissibly uncertain and ineffective on its own terms. It is also so closely tied to the

Charnwood Transport Contributions Strategy, which proposes an approach that is unlawful, that this critical component is unlawful.

80. There are therefore a number of fundamental soundness failings, each of which would merit in the first instance its own bespoke hearing session.
81. The precise consequences to follow those would have to be determined post-hearings. This may not include further progress of the examination, but would have the clear procedural advantage of allowing all participants to comment on the considerable new information that has arisen. It would also allow the Minister of State's letter to be the subject of the necessary detailed submissions.
82. In the absence of such a procedure, the ultimate decision to adopt would be challengeable under s113 PCPA 2004.

JAMES CORBET BURCHER

No5 Chambers

30 August 2024

23 August 2024
Response on Behalf of Redrow - 23 August 2024



Leicestershire County Council
Glenfield
Leicester
LE3 8RA

David Bainbridge
E: david.bainbridge@savills.com
DL: +44 (0) 1865 269053

By email only to: tsap@leics.gov.uk

Wytham Court
11 West Way
Oxford OX2 0QL
T: +44 (0) 1865 269 000
F: +44 (0) 1865 269 001
savills.com

Dear Sir / Madam

**Leicestershire County Council
Consultation on a Draft Transport Contributions Strategy for Developments in Charnwood District
Response on Behalf of Redrow**

I write to provide this response to the above consultation on behalf of my client Redrow.

Background

Across nearly 50 years and over 120,000 homes, Redrow have earned a unique reputation for building premium houses and thriving communities.

Redrow has land interests across Leicestershire including at Leicester, Lubbethorpe, Hugglescote and at Sileby and East Goscote in Charnwood Borough.

We welcome the opportunity to consider and comment on the consultation on the above document.

For the purpose of this response, we shall refer to this document as the CTCS.

We would point out that the title of the main document as stated above is incorrect in that it refers to Charnwood District whereas this should be Charnwood Borough.

We note there is no online questionnaire or consultation portal for this consultation and hence we provide our comments in this letter.

Our comments include references to the accompanying documentation comprising the following:

- Opinion from Paul Tucker KC and Constanze Bell
- Transport Review Charnwood Local Plan Transport Contributions Strategy, prepared by ADC Infrastructure
- Response to Charnwood Transport Contributions Strategy Viability Report, prepared by Savills

Whilst this response is specifically on behalf of Redrow, the accompanying documentation has been prepared for a number of parties who are presently involved in the promotion of land for residential development within Leicestershire in general and Charnwood Borough in particular.



This includes the Home Builders Federation (HBF) and the Land, Planning and Development Federation (LPDF). We align ourselves to the submissions of these organisations and in particular to the significant concerns raised about the premise and legality of the approach to the CTCS.

A key aspect of this response relies on the attached Opinion which finds that the CTCS is unlawful in that it tries to introduce what ought to be development plan policy outside of a development plan document. In addition, this Opinion also considers that the CTCS is poorly conceived in its content and approach and does not adequately justify the sums sought.

On this basis we request that Leicestershire County Council do not progress to adoption of the CTCS as a SPD but instead take time to consider how to make changes and engage on changes that can address the points made in this submission and by others. Our expectation is that the approach to the CTCS will be fundamentally reviewed with options set-out for a policy direction not policy proposed as supplementary guidance.

National Legislation, Policy and Guidance on Planning Obligations

There is insufficient explanation in the CTCS on the legislative and policy framework for progressing policy for example The Town and Country Planning (Local Planning) (England) Regulations 2012, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

There is also insufficient explanation of the recent consultation on a refresh of the Leicestershire County Council Planning Obligations Policy.

The policy guidance for planning conditions and planning obligations is within the section on decision-making and development contributions for plan-making in the NPPF. The substance of the policy guidance has not changed and so it would be relevant to know exactly what aspects of changes to the NPPF are relevant for this proposed approach by LCC.

In the latest version (July 2024) of the NPPF, paragraph 58 on planning obligations remains unchanged, as follows:

“58. Planning obligations must only be sought where they meet all of the following tests²⁴:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.”

Footnote 25 states: “Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.”

We consider it is appropriate to refer to the July 2024 version of the NPPF, to the PPG on planning obligations and also to the 2010 Community Infrastructure Levy Regulations (as amended), among other matters.

The proposed CTCS covers just the Borough of Charnwood and it does not define the position in respect of local policy and/or procedure for planning obligations within wider parts of the County.

An example of this is Melton Borough where there is a level of agreement over guidance on how infrastructure and planning obligations related policies in the Melton Local Plan should be interpreted and applied. It is not explained in this consultation what will happen with local arrangements.

We are concerned that LCC’s position on the CTCS might have been mis-directed as a result of the position taken by Charnwood Borough Council in the examination into the local plan.

In section 5. Securing Developer Contributions, of the letter from CBC to the Planning Inspectors of 12 April 2024 (EXAM reference: 80A), is the following statement:

“From a development management perspective, an SPD will carry just as much weight as a DPD, not least because it will be easier to keep up to date as costs change.”

We are advised that as a matter of law this is incorrect. An SPD does not carry as much weight as a Development Plan Document (DPD). If LCC is under this impression as a result of this position by CBC then further engagement is needed to correct this.

Why Are Planning Obligations Important?

There is insufficient explanation on this point. There needs to be an accurate reflection of the NPPF wording on planning obligations stated at paragraph 58 as quoted above.

We suggest there is greater consideration given to and explanation of the planning practice guidance on planning obligations.

It should be stated that planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.

A distinction should be made between agreements under the aforementioned planning act and agreements and consents under the Highways Act 1980.

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.

This is absent from the CTCS, which in effect attempts to introduce a roof tax-style transport contributions policies to sites within Charnwood Borough. Such an approach is simply unjustified and inappropriate. Policy making about Section 106 contributions should only be done through the plan-making process.

Adverse Effect on Delivery

The HBF point to the concern that the proposed approach could make housing delivery in Charnwood unviable. The new government is committed to delivery 1.5 million new homes over the next 5 years. In the midst of a housing crisis, it is not appropriate for LCC to seek unjustified and potentially unlawful transport contributions that fail to comply with the CIL regulations, etc.

The HBF point out that as an industry there is a strong desire to develop new housing within Charnwood Borough. The industry recognises that there is a need to mitigate the impact new developments, but developers cannot and should not be expected to pay to address existing deficiencies.

As with the aforementioned recent consultation on a refresh of the Leicestershire County Council Planning Obligations Policy, the CTCS does not cover the following matters:

- Circumstances where contributions under planning obligations will not be sought
- The evidential basis for planning obligations
- Scope for pooling of planning obligations to fund infrastructure (the 2019 policy still refers to a pooling restriction or no more than five planning obligations)
- Sources of funding for infrastructure for relevant infrastructure provision separate from planning obligations
- Approach to negotiating planning obligations
- Whether there is any locational and/or local planning authority variations in the County
- Provision of a standard template for planning obligations
- Resourcing of and timescales for negotiating and concluding planning obligations
- Monitoring of and reporting on planning obligations and infrastructure delivery, including production of an infrastructure funding statement

The adverse effects on delivery as a result of the CTCS is identified within the Review of the Charnwood Transport Strategy, prepared by ADC Infrastructure and in the Response to Charnwood Transport Contributions Strategy Viability Report, prepared by Savills.

ADC Infrastructure conclude the following:

- Treating the proposed development collectively and saying that cumulatively it would have a severe impact, and therefore each individual development would have a severe impact, is not a sustainable argument.
- A number of the aspects of the mitigation package would not be directly related to the developments to which they are attributed.
- They would not be necessary to make the development acceptable.
- Some of the measures would also be disproportionate and not fairly related in scale to the impact of the development.
- The Local Cycling and Walking Infrastructure Plans in particular make up a significant amount of the package cost, yet mainly address a deficit in infrastructure provision unrelated to the allocations. In certain places where measures would be expected, such as highway interventions along the A512 Ashby Road in Shepshed, they are missing.

Overall, ADC Infrastructure state that in transport terms it cannot be concluded that the CTCS sets out robust evidence of appropriate and justified mitigation.

Savills have expressed concerns about the various assumptions in the viability evidence for example overstating values and underplaying costs associated with development. The costs do not include a number of key development outlays, and some assumptions are too optimistic.

There is a real danger that the results of the viability assessments are presenting schemes which appear to be viable by over stating values and under stating costs, and that in reality they would not have the ability to afford the required transport contributions.

This would open up a scenario where at decision making stage, viability assessments for individual sites are required, which could seek to reduce the overall planning obligation package (including affordable housing).

This all presents adverse effects on the delivery of housing in Charnwood Borough and hence the request by Savills on viability grounds that the approach to the CTCS is reconsidered.

Highways and Transportation

In our response to the Leicestershire County Council Planning Obligations Policy, we strongly disagreed with the approach to highways and transportation.

The proposed changes under this refresh are in danger of not meeting the tests for planning obligations due to the lack of evidence and uncertainty over delivery of infrastructure.

Whilst acknowledging the County Council Cabinet's decision in November 2022, this is not necessarily supported in that it limits the options for delivery of highways and transportation infrastructure.

The proposal to update costs where the County Council chooses to deliver infrastructure to reflect the actual cost of delivery presents uncertainty and risk.

The approach to highways and transportation matters does not appear to be clear or consistent across the County of Leicestershire. For example, the County Council is seeking in effect a tariff approach for new development under the CTCS within the context of the emerging Charnwood Borough Local Plan which remains at examination.

On 10 February 2023, Leicester County Council Cabinet met to consider a Report of the Council's Chief Executive which recommended an 'interim approach' to securing developer contributions for, and managing development in respect of, highway needs, pending the adoption of Policies INF1 and INF2 of the Charnwood Local Plan. The Report was accompanied by an Interim Transport Contributions Strategy for Developments in Charnwood District [sic].

The Cabinet Report stated that:

"The Strategy has been prepared in response to ongoing development pressures across Charnwood. The purpose of the Strategy is to provide a policy basis for how the Council can seek transportation developer contributions towards the local plan mitigation package in advance of an adopted plan and/or associated detailed area transport strategies to be developed in support of this, including setting out the broad approach to implementation of the strategy.

The Strategy said that:

"The document will form the LHA's basis for securing developer contributions across Charnwood District towards cumulative and cross-boundary transport improvements....

and

For the avoidance of doubt, this document does not cover site specific and more localised issues to a site (e.g. such as the creation of new or improvements to existing points of site access or the need for any site specific highway mitigation measures); the need to address any such issues would be in addition to any requirement for a contribution to be made under this strategy."

The strategy identifies highway schemes, concepts for mitigation and cost estimates within 3 area-based transport strategies for Charnwood Borough. This was not mentioned in that consultation and yet it represents a significant shift in policy for only part of the County and without any assessment of evidence or impact of the proposed change.

Overall, we strongly disagree with the approach to highways and transportation which we consider is incomplete due to the absence of mention of the tariff approach proposed in Charnwood Borough (and possibly elsewhere) and is not underpinned by evidence or assessment of the impact of the proposed changes.

Opinion

We request that LCC reads in full the enclosed Opinion from Paul Tucker KC and Constanze Bell.

Paul and Constanze consider that the CTCS is unlawful in that it tries to introduce what ought to be development plan policy outside of a development plan document. In addition, they consider that in any event the CTCS is poorly conceived in its content and approach and does not adequately justify the sums sought.

We shall not attempt to repeat aspects of the Opinion which clearly sets out why the approach to the CTCS must be reconsidered by LCC.

Wider Comments

The consultation on the CTCS does not set out how LCC will go about assessing the responses and reporting on its response to the consultation responses.

The consultation does not set out how the County Council will go about engaging with the relevant local planning authorities or wider stakeholders in the policy formulation and infrastructure delivery for planning obligations for new development.

We request commitment by the County Council to provide applicants with a statement assessing the compliance of requested planning obligations, under Regulation 122 of the Community Infrastructure Levy Regulations. These should also be encouraged to be prepared by Leicestershire County Council. The Regulation 122 Statements should be provided to applicants in good time to enable discussions on heads of terms for planning obligations, ahead of preparation of a draft of the planning obligations.

There is no explanation on any transitional arrangements for changes to policy on planning obligations or what might happen to amendments to existing planning obligations.

Conclusion

Whilst we welcome the opportunity to consider and comment on the consultation on the CTCS we have identified significant concerns over the legality and soundness of the approach.

We request that Leicestershire County Council do not progress to adoption of the CTCS as a SPD but instead take time to consider how to make changes and engage on changes that can address the points made in this submission and by others. Our expectation is that the approach to the CTCS will be fundamentally reviewed with options set-out for a policy direction not policy proposed as supplementary guidance.

We would be pleased to discuss any aspect of these representations in more detail if this would be of assistance to the Council and we look forward to hearing from you.

Yours faithfully



David Bainbridge MRTPI
Planning Director

Copy. Clients
Encl. As stated above

**RE: IN THE MATTER OF LEICESTERSHIRE COUNTY COUNCIL'S DRAFT
CHARNWOOD TRANSPORT CONTRIBUTIONS STRATEGY**

OPINION

Introductory Matters

1. We are instructed on behalf of a number of parties ('the Clients') who are presently involved in the promotion of land for residential development within Leicestershire in general and Charnwood Borough in particular

2. A document known as the Charnwood Transport Contributions Strategy ('CTCS') was released for consultation by Leicestershire County Council ('LCC') on 10th July 2024, the consultation will close on 23rd August 2024.

Executive Summary

3. We consider that the CTCS is unlawful in that it tries to introduce what ought to be development plan policy outside of a development plan document ('DPD'). In addition, we also consider that in any event the CTCS is poorly conceived in its content and approach and does not adequately justify the sums sought.

Background

4. The detailed factual background is set out in our instructions, and we advise on that basis. The following is therefore only a summary of the most salient facts.

5. The Charnwood Development Plan comprises a Core Strategy (adopted in November 2015), the Saved Policies of the Borough of Charnwood Local Plan (2004), and a number of individual Neighbourhood Plans. A new Local Plan ('the Emerging Plan' or 'EP') was submitted for examination in December 2021.

6. There have so far been four hearing sessions regarding the EP (June and October 2022, February 2023 and February 2024). Consultation regarding main modifications ('MMs') began on 24th July 2024 and will run until 4 September 2024. Various participants at the February 2024 Hearing Sessions noted to the Local Plan Inspectors that the appropriate way of securing the sort of contributions being sought through the CTCS would be through the use of the Community Infrastructure Levy ('CIL') charging regime. For reasons which are not clear, this has not been pursued to date.
7. The evidence base behind the plan is extensive and technical documents include viability work by Aspinall Verdi.
8. LCC's evidence and representations and SoCGs with Charnwood Borough Council ('CBC') have referred to a requirement for developers to help fund transport interventions which are needed in order to mitigate the cumulative effects of the proposed allocations and the combined impact of development planned in neighbouring authorities.
9. LCC has modelled how the highway network is likely to function with background growth as well as the development traffic generated from all of the proposed allocations along with relevant developments proposed in neighbouring authorities. LCC have then identified and costed major interventions likely to be needed in that scenario and attributed that cost to the various developers. It has concluded that the Borough should be split into the following three areas: North of Leicester; The Soar Valley; and Loughborough and Shepshed ('the three areas') and that developers within each area contributing to the cost of the identified interventions on an equal basis (i.e. a £ per dwelling basis), irrespective of the level of impact that their proposals would individually have upon the highway network.
10. We are instructed that LCC has concluded that it considered it "too difficult" to assess the likely effects of each individual allocation, to then determine the infrastructure improvements that each allocation is likely to require, and to then work with CBC to specify that in the policies that each allocated site has in the Plan.
11. The per dwelling basis for financial contributions relies on figures that are considerably lower than the figures which have been advanced in recent planning application consultation responses. We are instructed that on LCC's proposed contributions and, in the absence of public sector funding to plug the gaps, there will be a significant level of uncertainty about which of the identified mitigation measures can be funded, when and in what order. LCC notes that there may be circumstances in which site viability rules out the making of contributions. If such

circumstances were to arise, LCC would obviously secure even less in the way of contributions and the gap would further increase.

12. The EP promises Transport Strategies for the three areas, and it is assumed that they will provide fuller details of the interventions that are required. At present EXAM75 which LCC submitted to the Local Plan EIP in late summer 2023 “sets out the broad contents of, and the framework for” the Transport Strategies, “explains the rationale behind the Strategies, the context in which they are being developed, the work that has been done to date and the work that is ongoing to inform the strategy documents that will eventually be approved by the County Council’s Cabinet”. There is no proposal to subject the Transport Strategies to any form of independent testing or examination. It is LCCs expectation that the implementation of the Transport Strategies and, we assume, the CTCS, will be given effect in CBC by Local Plan Policies INF1 and 2.
13. The MMs retain the references (in INF2) to local Transport Strategies, albeit there is also a reference in the amended text to requests for developer contributions needing to be informed by “appropriate evidence” and by a policy framework. In addition, Policy INF2 states that development will be supported where it is underpinned by a robust travel plan and transport assessment and where it demonstrates that such impacts can be appropriately and adequately mitigated.
14. These MMs follow hearing sessions on infrastructure and plan viability and submissions by several of the Clients in response to questions posed by Inspectors in February 2024¹. Several of the Clients made submission in response to these questions.
15. On 10 February 2023, LCCs Cabinet met to consider a Report of the Council’s Chief Executive which recommended an ‘*interim approach*’ to securing developer contributions for, and managing development in respect of, highway needs, pending the adoption of Policies INF1 and INF2 of the Charnwood Local Plan. That Report was accompanied by a document entitled “*Interim Transport Contributions Strategy for Developments in Charnwood District*” (‘the Interim Strategy’). That Interim Strategy identified 10 highway improvement schemes which were said to be aimed at managing the cumulative effects of the housing growth planned by the Borough Council and cross boundary issues arising in particular areas. Each scheme had a concept scheme drawing and a cost estimate. The total combined cost of the 10 schemes was

¹ The questions concerned the lawfulness and robustness of the approach to contributions and the appropriateness of apportioning costs.

estimated at £46.9m. The Strategy noted LCCs proposal to produce the 3 area-based Transport Strategies for Charnwood and to attribute scheme costs on an area-by-area basis but was silent regarding how much developers would be expected to contribute. The Interim Strategy was said to be an Interim one because it was aiming to address sites which might come forward in advance of the EP being adopted and without contributing towards highway schemes which were (presumably) only justifiable based upon cumulative contributions.

16. In May 2023, both authors of this opinion were instructed in respect of a legal challenge brought by Barratt David Wilson (BDW) directed at LCC seeking developer contributions pursuant to its Interim Strategy in respect of a then pending appeal in respect of a proposed residential development at Queniborough. Proceedings were issued but were rapidly compromised by a Settlement Agreement dated 8 June 2023 in which LCC agreed that the Interim Strategy was not to be treated as an adopted policy of LCC² and that it would not seek additional highways and education contributions over and above those already recorded in a Draft S106 Agreement which had by that stage been agreed, but which did not make provision for any monies covered by the Interim Strategy.
17. In May 2024 CBC informed all relevant applicants for planning permission that LCC would henceforth seek contributions in line with a new document, the Draft Charnwood Transport Contributions Strategy ('draft CTCS'). Various requests have now been made of the Clients seeking contributions relying on the draft CTCS. As noted above, the draft CTCS was released for consultation by Leicestershire County Council ('LCC') on 10th July 2024, the consultation will close on 23rd August 2024. The CTCS is supported by a Viability Report and set of FAQs.
18. The Clients have commissioned detailed technical work to consider the transport and viability evidence underpinning the draft CTCS.
19. The draft CTCS contains 6 Sections. We note that the fifth describes the interventions, or mitigation schemes, that LCC considers need to be delivered together with cost estimates for each. The sixth describes LCCs proposed approach to funding the mitigation measures and presents a Draft Policy on developer contributions, together with details of the sums that it proposes to seek from applicants going forward.

² CBC intimated that it was not proposing to adopt the Interim Strategy as policy.

20. We note that para. 1.5 of the draft CTCS advises that the document will be kept under review to reflect more detailed evidence when it becomes available. No review dates or periods are provided, nor is it clear what might trigger a review. Para. 1.6 explains that no site-specific highways issues are addressed, accordingly such matters are presumably intended to be addressed in addition to the draft CTCS approach.
21. The Draft Policy within the CTCS is said to be freestanding of Local Plan Policies INF1 and 2 but 'generally in accordance' with them (CTCS paragraph 6.4).
22. LCC asserts that, without the mitigation identified, severe cumulative impacts would arise (which would presumably be argued to be contrary to NPPF paragraphs 114 and 115). This conclusion has been reached after all proposed growth is added to the network. However, there is no identification of what baseline position has been adopted for this assessment (ie without permitted development). No assessment of the contribution of any individual allocation to the impact and no consideration of whether the impact of development without the mitigation package would be 'severe'.

Scope of this Opinion

23. Against this background we are asked to address the following matters:
 - a) whether the approach that LCC is proposing to take to securing developer contributions towards highways / transport mitigation measures through the draft CTCS is lawful;
 - b) whether adopting a blanket per dwelling approach to securing developer contributions as articulated in the Draft CTCS falls into conflict with Policy INF2 as proposed to be modified;
 - c) if the answer (a) is yes how should the Interested Parties set about challenging LCC on its approach;

Legal Background

(i) What Comprises a DPD?

24. By the PCPA 2004 s.38(1) and (3) a development plan is defined as consisting of: the regional strategy (if any); and the development plan documents (taken as a whole) which have been adopted or approved.

25. A development plan document (“DPD”) is defined in the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) at s.37 as: *“a local development document which is specified as a development plan document in the local development scheme.”*
26. By virtue of s17(3) PCPA 2004 Local Development Documents must, taken as a whole, set out the authority's policies (however expressed) relating to the development and use of land in their area.
27. “Local Development Documents” are further defined under regulations 5 and 6 of The Town and Country Planning (Local Development) (England) Regulations 2012 (“The 2012 Regulations”) in the following terms:

“5. Local Development Documents

(a) any document prepared by a local planning authority individually or in cooperation with one or more other local planning authorities, which contains statements regarding one or more of the following—

- (i) the development and use of land which the local planning authority wish to encourage during any specified period;*
- (ii) the allocation of sites for a particular type of development or use;*
- (iii) any environmental, social, design and economic objectives which are relevant to the attainment of the development and use of land mentioned in paragraph (i); and*
- (iv) development management and site allocation policies, which are intended to guide the determination of applications for planning permission;*

(b) ...

(2) For the purposes of section 17(7)(za) of the Act the documents which, if prepared, are to be prepared as local development documents are—

(a) any document which—

- (i) relates only to part of the area of the local planning authority;*
- (ii) identifies that area as an area of significant change or special conservation; and*
- (iii) contains the local planning authority’s policies in relation to the area; and*
- (b) any other document which includes a site allocation policy.*

6. Local plans

Any document of the description referred to in regulation 5(1)(a)(i), (ii) or (iv) or 5(2)(a) or (b) is a local plan."

28. Section 20 of the 2004 Act requires a DPD to be submitted to the Secretary of State for independent examination, to be assessed for 'soundness'. Subsequent sections make detailed provision in respect of that examination and its consequences. The 2012 Regulations provide for the descriptions of various documents and how they are to be characterised.
29. Section 19 of the 2004 Act concerns the preparation of local development documents.
30. Section 19(3) of the 2004 Act provides that, in preparing local development documents, the local authority must comply with their statement of community involvement (SCI).
31. The Council is legally required to prepare and adopt a statement of community involvement and once adopted it has to comply with it (See Section 18 of The Act 2004 as amended by the Planning Act 2008).
32. SPDs are defined negatively, they are those documents which fall within regulation 5(1)(a)(iii) or (1)(b) of the 2012 Regulations but do not form part of the local plan and so are not DPDs.
33. Regulations 12 and 13 of the 2012 Regulations provide for public participation in making SPDs and the right to make representations about SPDs. Whilst an SPD must be made the subject of public participation, the adoption of a local plan is a much more procedurally onerous affair, requiring the carrying out of the obligations in the 2004 Act at s.20. The obligations include notification of the proposed preparation of a local plan.
34. On the issue of what amounts to appropriate consultation, the general principle identified by Lord Woolf M.R. (as he then was) in the seminal case of *R. v North and East Devon Health Authority ex p Coughlan* [2001] Q.B. 213 at [108] is as follows:

"It is common ground that, whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at a time when proposals are still at a formative stage. It must include sufficient reasons for particular proposals to allow

those consulted to give intelligent consideration and an intelligent response. Adequate time must be given for this purpose and the produce of consultation must be conscientiously taken into account when the ultimate decision is taken.”

35. By regulation 8(1) of the 2012 Regulations, a local plan or a supplementary planning document must indicate whether the document is a local plan or a supplementary planning document.
36. Policies in an SPD must not conflict with the adopted development plan (reg.8(3)) whereas those in a local plan must be consistent with it (reg.8(4)), but while a local plan may contain a policy which supersedes one in the adopted development plan, if it does so, the local plan must state that fact and identify the superseded policy (reg.8(4) and (5)).
37. In *William Davis Ltd v Charnwood BC* [2017] EWHC 3006 (Admin), a local planning authority's "housing mix" policy was quashed by the High Court on the basis that it had been published in a supplementary planning document rather than a development plan document. The High Court held that the policy regulated the development of land and, by virtue of the *Town and Country Planning (Local Planning) (England) Regulations 2012* reg. 5(1)(a)(i) and reg.5(1)(a)(iv), should therefore have been produced as a local development document.
38. In *R (oao Wakil (t/a Orya Textiles) v Hammersmith and Fulham LBC* [2012] EWHC 1411 (QB), the adoption by a local planning authority of a planning document was quashed as procedurally flawed and unlawful where it had been wrongly characterised as a supplementary planning document rather than a development plan document, in respect of which the procedural requirements had not been met, and where the local authority had failed to consider whether it should be subjected to a sustainability appraisal and/or environmental impact assessment.
39. In *R. (on the application of Skipton Properties Ltd) v Craven DC* [2017] EWHC 534 (Admin) the High Court quashed a local authority document concerning the negotiation of affordable housing contributions on the basis that its content meant that it should have been prepared as a development plan document and should therefore have been subject to public consultation, a strategic environmental assessment, and an independent examination. The affordable housing contributions interim policy contained statements in the nature of policies which pertained to the development and use of land which the local authority wished to encourage, pending its adoption of a new local plan which would include an affordable housing policy. The development and use of land was either "residential development including affordable housing"

or "affordable housing". It was thus an interim policy in the nature of a DPD. The local authority's failure to comply with the statutory conditions for DPD adoption rendered its adoption unlawful.

40. In terms of where policies seeking contributions should be found, tolerably clear guidance is to be found in NPPF:

“34. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan”.

41. The National Planning Practice Guidance makes the point even more explicitly:

“Where should policy on seeking planning obligations be set out?”

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land. Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.

...

It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. *Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.*

...

Paragraph: 004 Reference ID: 23b-004-20190901” (emphasis added)

(ii) What Contributions may be Lawfully Required

42. Regulation 122 of the Community Infrastructure Regulations 2010 (“the CIL Regs”) provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

43. That constitutes the statutory test and also forms the policy test as set out in the NPPF (paragraph 57) and PPG (Paragraph: 002 Reference ID: 23b-002-20190901).

44. The practical operation of the test has been repeatedly considered by the courts including in R. (Midcounties Co-operative Ltd v Forest of Dean DC [2013] EWHC 1908; [2014] EWHC 3348 (Admin); [2015] EWHC 1251 (Admin) (“Midcounties Co-Operative”). The cases all concerned the same development and the offer through a planning obligation to provide town centre improvements in mitigation for an out-of-centre foodstore. In the latest of the cases, Singh J. held (at [116]) that although the planning officer had stated in his report that proposed S106 benefits were “necessary” nowhere in the report had he explained why they were necessary. The case emphasises the level of detail to which the decision maker must descend in order to allow the proper application of the CIL Regs.

45. A helpful summary was provided by the Court of Appeal in R. (on the application of Peter Wright) v Forest of Dean District Council [2017] EWCA Civ 2102 (“Forest of Dean”) (a decision which was subsequently upheld in the Supreme Court: [2019] UKSC 53):

“25. The only issue that arises in these appeals is whether the proposed community benefit fund donation of a proportion of the turnover derived from the development was properly taken into account as a material consideration by the Council when it considered and approved the planning application for the proposed development.

26. Section 70(2) of the Town and Country Planning Act 1990 (“the 1990 Act”) provides that, in dealing with an application for planning permission, a planning authority must have regard to all “material considerations”, including “any local finance consideration” defined in section 70(4) (added from 15 January 2012, by section 143(4) of the Localism Act 2011) as “(a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or (b) sums that a relevant authority has received, or will receive, in payment of Community Infrastructure Levy”.

27. *What amounts to a material consideration has been considered in a series of cases to which we were referred, including... Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Limited [2017] UKSC 66 (“Aberdeen)... I can be relatively brief. The relevant law is uncontroversial. Indeed, all parties rely upon the same well-established propositions.*

28. *So far as relevant to these appeals, the following propositions can be drawn from the cases.*

- (i) *A planning decision-maker has a statutory duty to have regard to all material considerations; and to have no regard to considerations which are not material. Whilst the weight to be given to a material consideration is a matter for the decision-maker, what amounts to a material consideration is a question of law for the court to determine.*
- (ii) *The fact that a matter may be regarded as desirable (for example, as being of benefit to the local community or wider public) does not in itself make that matter a material consideration for planning purposes. For a consideration to be material, it must have a planning purpose (i.e. it must relate to the character or the use of land, and not be solely for some other purpose no matter how well-intentioned and desirable that purpose may be); and it must fairly and reasonably relate to the permitted development (i.e. there must be a real – as opposed to a fanciful, remote, trivial or de minimis – connection with the development). These criteria of materiality, oft-cited since, are derived from the speech of Viscount Dilhorne in *Newbury* at page 599H, and known as “the *Newbury* criteria”. They were very recently confirmed by the Supreme Court in *Aberdeen* (at [29] per Lord Hodge JSC, giving the judgment of the court).*
- (iii) *For a benefit to be material, it does not have to be necessary to make the development acceptable in planning terms; although, by section 106 of the Town and Country Planning Act 1990 and regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010 No 948), a planning obligation may only be taken into account in the determination of any planning application if it is so necessary. Although paragraph 206 of the NPPF provides that “planning conditions should only be imposed where they are necessary...”, the statutory requirement for necessity does not apply to the attachment of a condition to the grant of planning permission.*
- (iv) *Financial considerations may be relevant to a planning decision. For example, financial dependency of one part of a composite development on another part may be material, as may financial viability if it relates to the development. However, something which is funded from the development or otherwise offered by the developer will not,*

by virtue of that fact alone, be sufficiently related to, or connected with, the development to be a material consideration.

- (v) *Off-site benefits are not necessarily immaterial. An off-site benefit may be material if it satisfies the Newbury criteria.”*

46. In Good Energy Generation Ltd v Secretary of State for Communities and Local Government [2018] EWHC 1270 (“Good Energy Generation”), Lang J held that the Secretary of State was entitled not to give weight to either a community investment scheme or a reduced electricity tariff which were both open to residents as proposed by the applicant because they were not material considerations. It was held (at [86] and [92]) that the local tariff “*was essentially an inducement to make the proposal more attractive to local residents and the local planning authority*” whilst the community investment scheme “*plainly was not necessary to make the development acceptable in planning terms, applying regulation 122 of the CIL Regulations. It was merely a potential investment opportunity.*”

47. More recently in HJ Banks & Co Ltd v Secretary of State for Housing, Communities and Local Government [2018] EWHC 3141 (Admin) (“HJ Banks”), Ouseley J assessed the wider distinction between compliance with the CIL Regs and the ability of planning obligations to be material considerations (with emphasis added):

*“60. If the language of regulation 122 is to be interpreted as if it said that an obligation which did not comply with the tests was not a material consideration where it was not necessary for acceptability, a condition to the same effect could still be used lawfully, if it were otherwise a suitable alternative. This seems an odd result. The expressed aim of the regulation is to prevent the weight or significance of a specific reason for the grant of planning permission being given to an agreement which fails the tests. The tests are rather more restrictive than would be necessary merely to prevent agreements which embody immaterial considerations being taken into account. But of course, that, in its turn, creates the problem of how an agreement which was a material consideration but failed the tests should be dealt with. There is an obvious difficulty in drawing a distinction between what is material, and what, in any given decision, constitutes a reason for the grant of permission: does it mean that it could be taken into account in favour of the grant of permission just so long as it did not constitute of itself a reason for the grant of permission? **My initial reaction was that the language of regulation 122 should be interpreted as if it forbade a non-compliant CIL from being a material consideration. But I now consider that cannot be right in the light of the very specific language and tests in regulation 122, and the different tests for materiality and the lawfulness of conditions. Problematic though it may be, drawing a distinction between "reasons for the grant of***

permission" and "a material consideration" would fit with the tests in the CIL Regulations being more stringent than those necessary for a lawful condition or a material consideration. It may not be easy to operate in practice, but then neither would the straight substitution of "material consideration". So, the differing treatments which agreements, which did not comply with regulation 122, have received at times in the IR and DL does not of itself show that an error of law was made.

61. The crucial argument, however, is not about compliance with CIL regulations, but is much more fundamental: were the obligations material considerations at all? This issue is not resolved simply by showing an agreement not to be CIL compliant. The agreement in *Forest of Dean* was held to be immaterial, by reference to ordinary planning principles of materiality, and not by reference to CIL Regulations. The problem there with the community contribution from the wind turbine operator was that the fund could be spent on any community benefit without any restriction, even to a planning purpose, let alone one related to the particular planning proposal. It was a source of funds for unspecified community benefits, desirable no doubt but immaterial in planning terms. The purpose of the fund was too broad for the fund to be a material consideration in a planning decision; [58].

62. The vice of the *Forest of Dean* fund, submitted Mr Brown, was the vice of *Discover Druridge*, as described by the Inspector in C93, a description with which the Secretary of State agreed. There was no limit on what the fund could be spent on; it was not confined to a planning purpose or one related to the development proposed. It was again too broad. I cannot see any material distinction between the *Discover Druridge* fund and the community fund in *Forest of Dean*. No party, including the Secretary of State, suggested one. Mr Elvin recognised the difficulties. The Inspector and Secretary of State both concluded correctly that *Discover Druridge* was not CIL compliant. But compliance with CIL is not the be all and end all of the issue. The issue which the Inspector and Secretary of State also had to address was whether *Discover Druridge* was itself a material consideration. They ought to have concluded that it was not. This meant that it could not be taken into account at any stage of the planning balance either in relation to the specific topic of tourism, or in what the Secretary of State calls "the overall planning balance" preceding his consideration of paragraph 149, or in his consideration of the balance in paragraph 149. I accept therefore the premise of Mr Brown's argument that the Secretary of State has unlawfully taken an immaterial consideration into account as a moderate benefit to which he accorded moderate weight.

...

The skills fund, prayed in aid in support of Mr Brown's argument, was not shown to be an immaterial consideration. The fact it was not CIL compliant does not make it immaterial. It did not suffer from the vice of Discover Druridge. Its purpose was clear and defined. There may be scope for debating materiality, but FoE's contention is too debateable for me to hold it immaterial in a side-wind to this challenge, and then also to subtract its moderate weight from what ought to have weighed in favour of the proposal. That would be to make a decision which it is for the Secretary of State to make."

48. It is also important to note that the mere inclusion of a policy in the development plan is not sufficient to make what is otherwise irrelevant relevant. In *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 2 All E.R. 636 ("Tesco Stores"), later affirmed by *Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Ltd* [2017] P.T.S.R. 1413 ("Aberdeen"), Lord Hodge stated (at [51]) (with emphasis added):

"The inclusion of a policy in the development plan, that the planning authority will seek such a planning obligation from developers, would not make relevant what otherwise would be irrelevant. Section 37(2) (para 25 above) requires the planning authority to have regard to the provisions of the development plan "so far as material to the application" and treats its provisions as a relevant consideration only to that extent. Thus, a green belt policy will be relevant to an application if the site of the application falls within the specified green belt and a requirement that a certain amount of open space is provided in a proposal for residential development will be relevant to an application for residential development. Similarly, a requirement in the plan that an applicant should agree to contribute to the cost of offsite infrastructure, which is related to its development, will be relevant to the application. But the words, which I have emphasised, mean that if a planning obligation, which is otherwise irrelevant to the planning application, is sought as a policy in the development plan, the policy seeking to impose such an obligation is an irrelevant consideration when the planning authority considers the application for planning permission."

49. Holgate J in *Norfolk Homes Ltd v North Norfolk DC* [2020] EWHC 2265 (QB), rightly concluded that a planning obligation is a freestanding legal instrument and does not form part of a planning permission, whether in the context of ss.70 or 73. It is separately enforceable.

Discussion

50. Our Clients have identified several issues of concern arising from the draft CTCS, all of which appear to us to be well founded:

- a) it fails to adequately distinguish between issues that currently impact the performance of the highway, walking and cycling networks (issues that developers of the proposed allocations should not ordinarily be required to address), and impacts that would be likely to arise as a result of proposed allocations;
- b) it fails to identify the precise impacts that each of the allocations will have and the infrastructure that each may require in order for it to be acceptable in planning terms;
- c) it fails to differentiate between the impacts that developments of different scales will have;
- d) it fails to link proposed mitigation measures to proposed allocations;
- e) it proposes to impose a charge upon developments irrespective of the credentials of each such site. Thus, the developers of sustainable developments may find themselves funding infrastructure which relates to improving the sustainability credentials of less well-connected rural sites;
- f) it does not provide a means by which the full cost of the identified mitigation measures will be secured and thus does not provide a mechanism for the delivery of the package of measures that would otherwise be considered necessary, and which would presumably need to be funded in addition to such a charge by means of a planning obligation;
- g) it expressly admits that further work is required in order to refine LCC's evidence base and the proposed schemes;
- h) it notes that the costs quoted in the document would be likely change over time (presumably beyond simply indexation);
- i) it is proposing to introduce a per dwelling contribution sums that are materially different to those that have been applied in recent consultations on planning applications, and therefore by CBC when taking applications to its Planning Committee; Indeed, remarkably, at the Launch Event for the draft CTCS, LCC was unclear about whether, it would be seeking the figures within the draft CTCS or its previous approach until the CTCS is adopted.

51. We note that the mitigation measures that LCC has considered to be necessary have been identified from an assessment that has considered the likely highways impacts if all of the EP's allocations are delivered. It also seems to have considered developments that are proposed close to Charnwood but located within neighbouring authorities. LCC notes that a minority of the allocated sites already have planning permission and that (obviously) these would not contribute towards the cost of the mitigation measures that have been identified (draft CTCS paragraph 3.4). However, any contributions sought under the draft CTCS may be deployed to address existing (or soon to be existing) impacts arising from developments which have already permitted. Similarly, the eighteen Loughborough Area Local Cycling and Walking Infrastructure Plan (LCWIP) schemes which are to be funded by the draft CTCS (fig. 6.4, p.52,

Table 7.9, p.97) do not appear to be directly linked to any of the allocations which are proposed in the Local Plan.

52. The application of the draft CTCS would place a very significant financial burden on developments within Loughborough, Shepshed and North of Leicester for improvements to walking, cycling and passenger transport infrastructure, yet these are located in the most sustainable parts of the Borough. The draft CTCS proposes to use monies raise to address the existing problems with the attractiveness of passenger transport services across the County (draft CTCS 4.13). Notably, LCC has attempted and failed to secure Government funding for its Bus Service Improvement Plans (“BSIPs”) and aim to now fund BSIPS through developer funding secured through the draft CTCS.

53. Policy INF2 as modified states that specific requests to fund the Transport Strategies will need to be supported by appropriate evidence, as well as to transport assessments for individual sites. The draft CTCS does not however address what happens when site-specific work does not justify the level of contribution sought. INF2 expressly appears to allow for that outcome. The draft CTCS identifies 10 highway improvement schemes that LCC considers need to be delivered in order to mitigate the cumulative impacts of all of the proposed allocations and developments planned in neighbouring authorities. Four lie within the Loughborough / Shepshed strategy area; one straddles this and the Soar Valley; one straddles the Soar Valley and North of Leicester and four lie in the North of Leicester strategy area.

54. It is clear that there is a myriad of technical and evidential issues with the CTCS as proposed/drafted. For the sake of clarity, we intend to address each of the issues raised in our instructions in turn.

55. We consider that seeking developer contributions on a per dwelling basis through the CTCS is likely to be considered to be unlawful were the matter to be litigated. There are a number of reasons for this:
 - (a) It seeks to impermissibly replicate the CIL charging regime without including any of the safeguards of that regime endorsed by Parliament; which is especially egregious since CIL was introduced because of what were considered to be shortcomings in the power of s.106 to achieve a tariff-based approach;
 - (b) It seeks to introduce policy which ought to be contained within a development plan into a non-DPD;

- (c) It seeks to impermissibly include a formulaic approach to the collection of monies secured by s.106, contrary to policy (NPPF §34) and guidance (NPPG – supra), and appears not to have regard to either as a material consideration in doing so; and
- (d) It seeks to require by policy the provision of monies which do not meet the test of materiality and is starkly comparable to the unlawful tariff-based approach in the City of Aberdeen, struck down in the Supreme Court case of *Elsick* (supra).

56. Dealing firstly with the CIL issue. Section 205 of the Planning Act 2008, provides that the Secretary of State “*may with the consent of the Treasury make regulations providing for the imposition of a charge to be known as [CIL]*” (subsection (1)), and that “*[in] making the regulations the Secretary of State shall aim to ensure that the overall purpose of CIL is to ensure that costs incurred in supporting the development of an area can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable*” (subsection (2)). The CIL Regulations were made under that power and came into force in 2010.

57. CIL was consciously introduced as a means to impose a generalised levy upon particular forms of development in order to obtain a formula-based contribution to pay for infrastructure which would be to the general public benefit, but would not necessarily meet the tests of regulation 122(2) were it to be sought in whole or part for the development under consideration. Indeed, CIL was specifically introduced because it was considered that a tariff-based approach would not be lawfully within the power of s.106³. It addressed what was perceived as a shortcoming of the power in s.106 to address wider infrastructure requirements, and whilst s.106 can be used to secure ‘pooled’ contributions⁴, that is subject to the express requirement that **any** singular contribution secured by a s.106 in policy terms must still meet the tests of policy (and regulation 122(2)).

58. Thus, the means by which generalised infrastructure contributions can be sought is the CIL regime. It is a significant shortcoming of the current CIL system, especially since amendments to regulation 123, that there is no requirement to actually spend any of the monies raised through CIL on any particular projects even if CIL was expressly promoted on the intention to do so.

³ See, for example [“Valuing Planning Obligations in England, Department for Communities and Local Government”](#), DCLG, May 2006, and the discussion of what was then called Planning Gain Supplement and was expressly referenced as a ‘tax’. Followed by the subsequent Green Paper “Homes for the future: more affordable, more sustainable” DCLG, 2007, Cmnd. 7191.

⁴ NPPG 006 Reference ID: 23b-006-20190901

59. In this instance it is tolerably obvious that the draft CTCS is seeking to replicate CIL through the medium of policy, without express Parliamentary power, and without proceeding through any of the safeguards imposed by Parliament upon the collection of CIL. Indeed, if it had been lawfully possible to achieve the same objective as CIL simply through the adoption of policy such as the draft CTCS, then it would have made a nonsense of the lengthy Government angst about Planning Gain Supplement which led to the introduction of CIL in 2010.
60. That angst is explained by the fact that such an approach was considered on occasion to comprise no more than a development tax⁵, and such a tax would be required to be approved as such by Parliament under the constitutionally important provisions relating to the introduction of a Finance Bill promoted to Parliament in that way. That CIL is not considered to be a tax is solely because of the specific safeguards in the 2008 Act that monies collected can only be directed towards infrastructure relevant to land use planning.
61. The term ‘roof tax’ is sometimes used to describe generalised requests for contributions which have been promoted elsewhere on a per dwelling basis. However, the very fact that a proposal is promoted as a ‘tax,’ however colloquially, ought itself to be a warning of its likely illegality. There is a fine, but important line between pooled contributions which are justified and those which are legally dubious. Thus, generalised comparison with other approaches to ‘pooled contribution policies’ should not give comfort to LCC. Pooled s.106 contributions for a specific item of infrastructure (eg a relief road needed by multiple developments to make them acceptable) are not in principle unlawful, provided that appropriate safeguards are in place – crucially that the requirement for any such contribution meets the threefold test of materiality in the *Newbury* case; – most importantly that the contribution fairly and reasonably relates to the particular development in scale and kind. That test is palpably failed in the case of the CTCS.
62. Purporting to introduce a parallel regime to CIL through this draft policy – is in our view not lawful.
63. Dealing with the remaining concerns (set out at paragraph 55 above) on legality together. If it were permissible to introduce a formulaic approach and if the (fundamental) problems set out above could be overcome⁶ then there is still a major problem in promoting such an approach through the promulgation of policy through the medium of an SPD or other non-DPD policy, rather than through a DPD. The most obvious point is that Government specifically advises

⁵ See for example para 1.7 of the 2006 DCLG publication (supra).

⁶ Eg linking a development to a specific piece of infrastructure that was fairly and reasonably related to it in scale and kind for example, and met the other tests of policy and materiality.

(NPPF §34 and PPG (supra)) that this should **only** be done through a DPD where the implications of such an approach can be scrutinised and tested. However the point goes further, and one must ask whether or not the policy is of the nature of a development plan policy. In our view it plainly is, despite the purported ‘hook’ of linking the draft CTCS in CBC to INF2 of the emerging plan.

64. The implications of the draft CTCS have plainly not been tested or scrutinised in any forum, and it is difficult to see how the viability and transportation testing of individual allocations within the EP could act as a substitute for this process (even if that had been done). Additionally, and obviously INF2 is an emerging policy, and will only apply to CBC’s area and not the remainder of Leicestershire, despite LCC being the LHA for most of the County. Indeed, it is difficult to understand on what statutory basis LCC is acting in any event other than as local highway authority, and its powers might extend to the promotion of guidance, but not planning policy and certainly not planning policy that might comprise an LDD⁷ let alone one which only applies to part of its area.
65. In terms of the draft CTCS itself, is in substance, a local development document whose policy requirements patently should have been brought forward as policy within a development plan pursuant to the statutory process prescribed under the 2004 Act (even had they been otherwise justified). Indeed, the same legal error committed in relation to the interim policy has in our view been repeated with respect to the approach within the draft CTCS.
66. The draft CTCS explicitly sets out LCC’s proposed approach to securing developer funding for the proposed mitigation measures and presents a Draft Policy on developer contributions which is expressly intended to inform how planning applications are determined. Indeed, it condescends to the details of the sums that it proposes to seek from applicants going forward, without those sums ever being the subject of scrutiny in terms of their objective justification, nor the impact upon viability of proposed development, still less their fairness – ie a blanket request which doesn’t differentiate between sustainable sites which do not generate any impact relating to the mitigation for which the contributions are being sought.
67. The draft CTCS is patently a document containing statements about: the development and use of land which the local planning authority wish to encourage during any specified period (reg. 5(a)(i)); an economic objective which is relevant to the attainment and development of land (developer contributions) (reg. 5(a)(i)ii); and development management policies intended to guide the determination of planning applications (reg. 5(a)(iv)). It is explicitly intended to be

⁷ Local development document.

taken into account as comprising policy when assessing development proposals and is not, on its face, merely a background document.

68. The draft CTCS would appear falls within the description set out in reg. 5(a)(i) and reg. 5(a)(iv), it is a local plan policy, and should not be promulgated through any other medium. To do so would, on the face it, circumvent the will of Parliament.
69. Were LCC to decide to adopt the CTCS in this form, then it would mean that the Clients would have been improperly denied the opportunity to engage with the viability implications contribution calculations through the EP EIP, let alone the relevance of the supposed mitigation schemes to individual development schemes and the amounts of any such contributions. The soundness of the policy has not been tested in the forum of an EIP. Such an approach would, in our view be unlawful.
70. We would reiterate that this tariff-based approach is very different from an instance where an allocation has been promoted, subject to the expectation that it will contribute towards the delivery of key infrastructure (such as a bypass) and that a high-level viability assessment is undertaken at local plan examination, with the detailed costing of the scheme and the precise sums being assessed & sought within an SPD.
71. National policy and guidance require that the approach to calculating developer contributions is set out in the Development Plan, at least in the first instance. LCC's approach is in our view likely to be concluded to be contrary to both law and national policy and guidance.
72. By virtue of regulation 8(3) of the 2012 Regulations, policies in an SPD must not conflict with the adopted development plan. The Council's adopted development plan is not the emerging local plan and the introduction of the draft CTCS therefore creates conflict with the adopted Development Plan, so even as an SPD it would be legally problematic.
73. Even pre-supposing the above issues were capable of being overcome, we are also asked to consider whether the per dwelling approach in the draft CTCS is consistent with Policy INF2.
74. We strongly consider that it is not. Policy INF2 as amended by MMS refers to requests for developer contributions needing to be informed by "appropriate evidence" and by the policy framework. INF2 also states that development will be supported where it is underpinned by a robust travel plan and transport assessment and where it demonstrates that such impacts can be appropriately and adequately mitigated. That is a conventional approach to the seeking of

contributions which would meet the conventional policy tests, and which could then be sought and taken into account where they meet the test of materiality.

75. The approach in the draft CTCS is a flat per-dwelling tariff-based approach which requires no development specific assessment, no appropriate evidence and seeks to disregard the policy tests as well as regulation 122(2). We would reiterate that it would appear to fall into precisely the same legal error as did Aberdeen City Council in the *Elsick* case (supra).
76. Furthermore, it is unclear what will actually be paid for under the CTCS contribution and what will be covered by the INF2 contribution. It is unclear how ‘double counting’ will be avoided. It is also unclear how it might be enforced. Thus, if there was a sufficient link between a given proposal and a contribution secured under the draft SPD which might meet the policy tests – then it is hard to see how LCC might be compelled to spend money which has been collected preferentially in respect of one scheme rather than another. To the contrary it would appear to be little more than an attempt to introduce a local tax without the express authority of Parliament, which, in the words of Lord Templeman in the seminal case of *M v Home Office* [1993] UKHL 5, would be to reverse the result in the English Civil War.
77. By virtue of regulation 8(3) of the 2012 Regulations, policies in an SPD must not conflict with the adopted development plan. The EP and draft CTCS are in our opinion in conflict in terms of the approach to contributions.
78. The decision to adopt the draft CTCS as policy would undoubtedly be a decision amenable to judicial review. The challenge would have to be brought promptly and no later than 6 weeks from the date of its adoption.
79. If a period of 6 weeks from adoption passes, without a challenge being brought, then LCC would no doubt seek to rely upon the presumption of regularity – namely that administrative acts are presumed to be lawful unless and until they are successfully challenged in the High Court⁸. However, even if that were to occur then we would re-stress the words of Lord Hodge in the *Elsick* case quoted above:

“The inclusion of a policy in the development plan, that the planning authority will seek such a planning obligation from developers, would not make relevant what otherwise would be irrelevant.”

⁸ The maxim is known by the Latin phrase “omnia praesumuntur rite esse acta”.

80. The same would obviously apply to policy which is promulgated further down the policy ladder in a non-DPD. Thus, even if no challenge to the draft CTCS were made, it would not mean that merely because such an approach were to be set out in a policy document which had not been challenged that it would comprise a lawful approach. To the contrary, it could properly be argued at each application stage, and worse, it could be argued that a planning permission which made such a contribution, and which was taken into account by the decision maker would be vulnerable to challenge (see the *Good Energy* case – supra). That said any permissions which have been granted on the basis that account has been taken of a contribution being made under the draft CTCS or its predecessor would benefit from the Presumption of Regularity if they are not challenged within the requisite 6-week period.

Conclusions

81. We advise accordingly. Should anything else arise please do not hesitate to contact us further.

Kings Chambers
36 Young Street
Manchester M3 3FT

Paul G Tucker KC
Constanze Bell

17th August 2024



TRANSPORT REVIEW

CHARNWOOD LOCAL PLAN
TRANSPORT CONTRIBUTIONS STRATEGY

DOCUMENT CONTROL

project number: ADC3593			report reference: ADC3593-RP-A	
version	date	author	reviewer	comments
1		David Cummins		internal draft
2	20/08/2024	David Cummins	Jamie Cassie	first issue to the client team
3	21/08/2024		David Cummins	minor amends
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1.0 INTRODUCTION

- 1.1 In July 2024, Leicestershire County Council (LCC) published their *Draft Transport Contributions Strategy for Developments in Charnwood District*. It is the subject of consultation that ends on 23 August 2024.
- 1.2 The report is the latest in a series of reports published over the last six years as part of the evidence base for the Charnwood Local Plan, which is currently at examination. The report summarises the work that has been undertaken, and seeks to explain and justify LCC’s approach to requesting developer contributions. Those contributions are intended to deliver the transport improvements required to mitigate the cumulative and cross-boundary impacts of sites allocated in the draft Local Plan. In other words, the Plan-level mitigation. For ease of reference, the July 2024 report is referred to as the Charnwood Transport Contribution Strategy (“CTCS”).
- 1.3 This report has been prepared by ADC Infrastructure on behalf of a consortium of developers and land promoters. It summarises the CTCS, and in transport terms provides advice to the consortium on matter such as the applicability of a Plan-level strategy to individual developments, its deliverability, and weaknesses. It is anticipated that this review will be used to support representations to the CTCS consultation by LCC, and/or to the Local Plan Main Modifications consultation by Charnwood Borough Council.

2.0 POLICY

- 2.1 Section 106(1)(d) of the Town and Country Planning Act 1990 permits a Section 106 obligation to require, “... a sum or sums to be paid to the authority ... on a specified date or dates periodically.” Planning obligations can assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
- 2.2 Para 57 of the NPPF states that, as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, planning obligations must only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 2.3 Under Planning Obligations, the Planning Practice Guidance states¹, “*Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.*”
- 2.4 Paragraphs 114 and 115 of the NPPF state:
- “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*
- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - safe and suitable access to the site can be achieved for all users;*
 - the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code⁴⁶; and*
 - any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

¹ Paragraph: 004 Reference ID: 23b-004-20190901

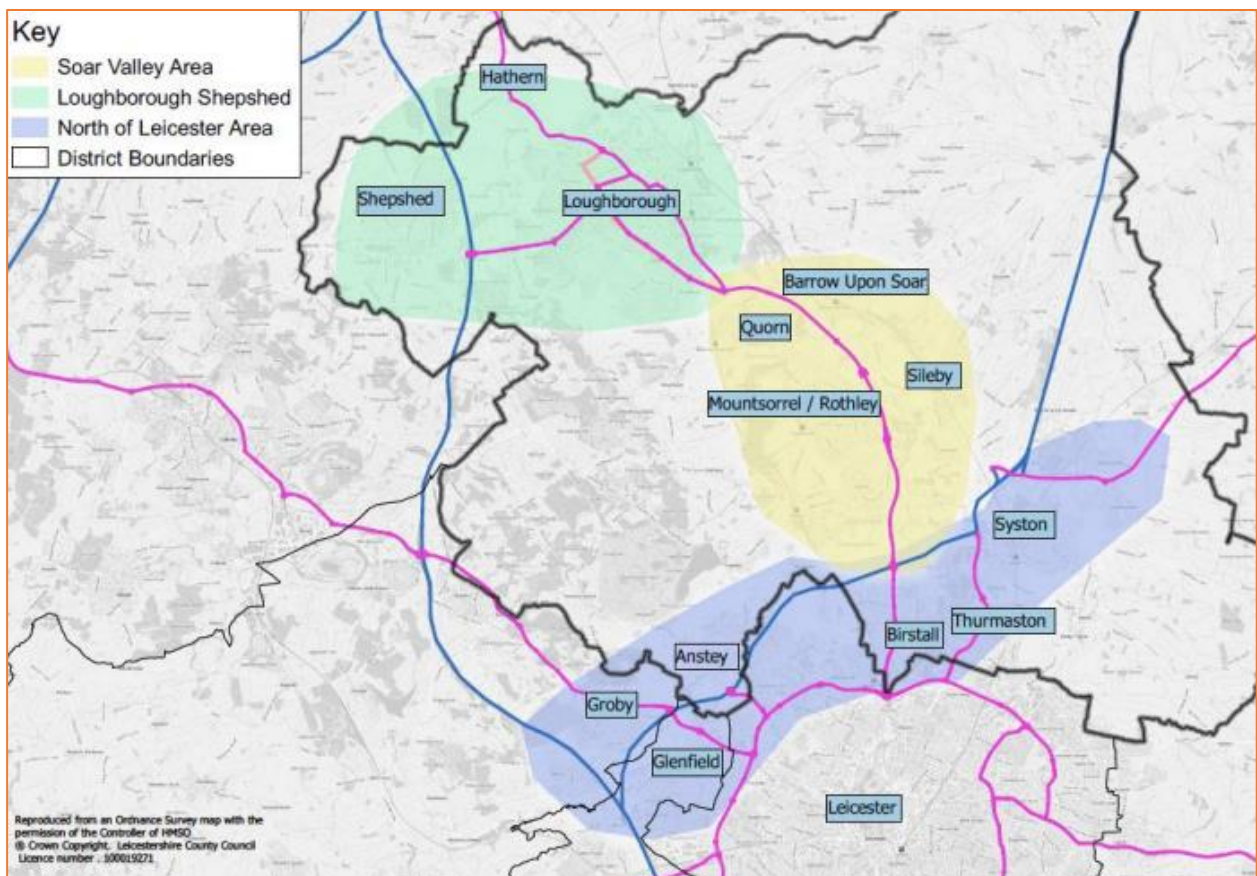
3.0 SUMMARY OF THE CTCS

Methodology

- 3.1 The Charnwood Transport Contributions Strategy (CTCS) has emerged following a series of assessments undertaken by LCC on behalf of Charnwood Borough Council. The first report was dated November 2018. The assessments were increasingly detailed, within the limitations of the strategic transport model that was employed to assist, initially LLITM and more recently PRTM (Pan-Regional Transport Model). Initial assessments considered growth options, and later assessments considered the draft allocations. Initially mitigation was explored crudely, assuming a simple 10% uplift in capacity at key junctions. More recently preliminary designs of mitigation works have been prepared.
- 3.2 One of the key conclusions of the initial work was that enabling sustainable travel and increasing walking, cycling, and bus journeys, could only ever mitigate a small amount of the travel demand created by the planned growth. Such measures were nevertheless important, and part of the overall mitigation package. Highway improvements were essential to mitigate the significant impacts arising from the planned growth.

Three strategy areas

- 3.3 A further key conclusion of LCC's assessments was that three strategies are required, focused on the three distinctive geographies in the following areas:
- Loughborough Shepshed
 - Soar Valley Area
 - North of Leicester Area



- 3.4 Within each of the strategy areas, there are three components to the Plan-level mitigation strategy:
- cycling and walking
 - passenger transport
 - targeted highway interventions (on the Major Road Network and Strategic Road Network)

Cycling and walking

- 3.5 The cycling and walking elements are based on the Local Cycling and Walking Infrastructure Plan (LCWIP) for the various areas, as summarised in the table below. The large cost associated with the North of Leicester Area LCWIP should be noted, making up 53% of the whole mitigation package (£106.9m/£202.2m).

strategy area	proposals	estimated cost
Loughborough Shepshed	Loughborough Area LCWIP	£36.4m
North of Leicester	North of Leicester Area LCWIP	£106.9m
Soar Valley	initial work has been undertaken on the required improvements, but not to the level that would allow it to be titled an LCWIP	£2.0m
total		£145.3m

Passenger transport

- 3.6 The passenger transport strategy comes from the Leicestershire Bus Service Improvement Plan (BSIP). It assumes that future enhancement of passenger transport provision within Charnwood will be based on a digital Demand Responsive Transport (DRT) model comparable to LCC's 'FoxConnect' Rural Mobility Fund (RMF) pilot project for South Leicestershire. It is further assumed that such a service would operate with three internal combustion engine vehicles, at an estimated net cost of £10,000,000 over a 15 year period. Around 75% of this cost would be attributable to the digital DRT service in the more rural Soar Valley area, with the remaining 25% being attributable to the 'fixed route' element between Shepshed and eastern Loughborough. The northern extents of Leicester are better provided for by existing bus services and therefore attract no cost.

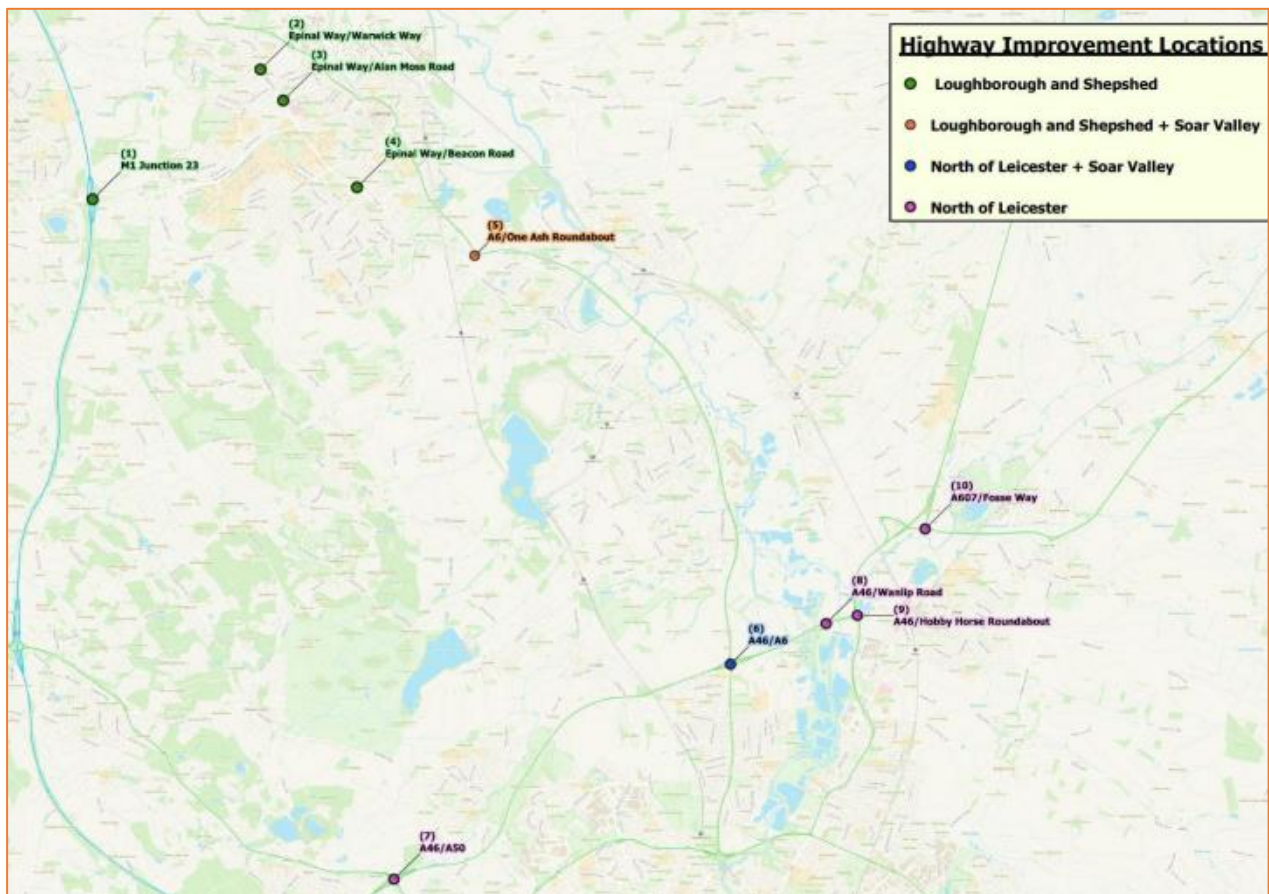
strategy area	proposals	estimated cost
Loughborough Shepshed	based on DRT model explained in the BSIP	£2.5m
North of Leicester		£0m
Soar Valley	based on DRT model explained in the BSIP	£7.5m
total		£10m

Targeted highway interventions to the Major Road Network and Strategic Road Network

- 3.7 Reviewing measures of congestion such as journey times and ratio of flow to capacity, the traffic modelling work has identified a set of junctions that would perform poorly in the future with the Local Plan growth. Mitigation schemes have been identified at 10 junctions (listed below), on the: Major Road Network (maintained by LCC) and Strategic Road Network (maintained by National Highways).

ref	location	strategy area	cost
1	M1 Junction 23	(SRN) Loughborough and Shepshed	£15.1m
2	Epinal Way/ Warwick Way	(MRN) Loughborough and Shepshed	£1.0m

3	A6004 Epinal Way/Alan Moss Rd	(MRN) Loughborough and Shepshed	£0.7m
4	A6004 Epinal Way/Beacon Rd	(MRN) Loughborough and Shepshed	£1.6m
5	A6/A6004 One Ash Rbt.	(MRN) Loughborough and Shepshed (+ Soar Valley)	£2.8m
5	A6/A6004 One Ash Rbt.	(MRN) (Loughborough and Shepshed +) Soar Valley	£0.8m
6	A46/A6	(MRN) (North of Leicester +) Soar Valley	£2.5m
6	A46/A6	(MRN) North of Leicester (+ Soar Valley)	£6.8m
7	A46/A50	(SRN) North of Leicester	£6.4m
8	A46/Wanlip Rd	(SRN) North of Leicester	£4.8m
9	A46/A607 Hobby Horse Rbt.	(SRN) North of Leicester	£2.9m
10	A607/Fosse Way	(MRN) North of Leicester	£1.6m
total			£47.0m



Total cost

3.8 From the above, LCC estimated costs for each of the three strategy areas, as summarised in the table below.

strategy area	cycling and walking	passenger transport	highway interventions	total
Loughborough Shepshed	£36.4m	£2.5m	£21.2m	£60.1m
North of Leicester	£106.9m	£0m	£22.4m	£129.3m
Soar Valley	£2.0m	£7.5m	£3.3m	£12.8m
total	£145.3m	£10m	£46.9m	£202.2m

Contribution calculation

- 3.9 Policy DS3 of the draft Local Plan² sets out the proposed housing allocations. The number of dwellings has been modified as a result of examination. The current number of allocated dwellings in each of the strategy areas has therefore been determined, as shown in the table below. Each allocation is attributed to one of the transport strategy areas, also as shown in the table below. Hence, a cost per dwelling has been derived to cover the costs of the transport strategy in each area. This is method (i), the amount required to fully-fund the transport strategy. This was the method LCC were employing until their July 2024 report was released. The method (i) figures were those requested in consultation responses issued by LCC.
- 3.10 In their July 2024 report, LCC introduced method (ii). It was the affordable per dwelling contribution, calculated using Charnwood Borough Council’s viability evidence. LCC state that the per dwelling contribution they will request will be the lower of the two figures calculated in each area.

transport strategy area (and LP site ref.)	dwellings	£m	£/dwelling	
			method (i)	method (ii)
Loughborough/Shepshed HA15 to 42, HA61 to 63	4,336	£60.1	£13,900	£5,300
North of Leicester HA1 to 14, HA43 to 44, HA60, HA64 to 69	3,617	£129.3	£35,800	£11,500
Soar Valley HA45 to 59	1,322	£12.8	£9,700	£22,100
total	9,275	£202.2		

Shortfall

- 3.11 While it does not form part of LCC’s report, they nevertheless make clear that the contributions they will gather in each area will be insufficient to fully fund the strategy, because:
- multiple allocated sites have already gained consent, losing the opportunity to secure a contribution
 - site specific viability assessments may evidence that they can only afford to pay less
 - selecting only the affordable contribution results in a shortfall.
- 3.12 Setting aside points a) and b), point c) can be tested, because the numbers can be used to derive the maximum amount LCC could expect to collect, as shown in the table below. There would be a £124.8m (62%) shortfall against the fully-fund requirement of £202.2m.

transport strategy area	dwellings	£/dwelling	amount raised	amount to fully fund	shortfall
Loughborough/Shepshed	4,336	£5,300	£23.0m	£60.1m	£37.1m
North of Leicester	3,617	£11,500	£41.6m	£129.3m	£87.1m
Soar Valley	1,322	£9,700	£12.8m	£12.8m	£0.0m
total	9,275		£77.4m	£202.2m	£124.8m

² Policy DS3: Housing Allocations, Charnwood Local Plan 2021-37 Pre-Submission Draft July 2021

Commercial development contributions

- 3.13 LCC note that there are two new commercial sites allocated in the draft Local Plan, which total 7.3 hectares of floorspace (although it should say site area). Development of these sites will be expected to contribute. However, the relatively small amount of commercial use will create only a small dent in the shortfall in funding.
- 3.14 The contribution requested will be derived by equating daily employment trips to daily residential trips and the per dwelling contribution for the relevant area. As with housing sites, commercial sites carried over from the 2015 adopted Core Strategy are not expected to contribute.

Justification for a contribution request

- 3.15 Aside from the derivation of the contribution request, the CTCS sets out the justification for a request. It states LCC's opinion that the CTCS is an approach for sharing the costs of the package on a reasonable and proportionate basis between development sites across the Borough, which reflects the broad geographic extent of the three area transport strategies.
- 3.16 It notes that proposed site allocations are already coming forward as planning applications (or are anticipated in the near future), whilst a minority of sites have already secured planning permission. Sites approved prior to the development of the CTCS have not been required to contribute to the Plan-level cumulative mitigation, leaving an increasing funding shortfall.
- 3.17 LCC note that there is currently no alternative or better evidence and package of interventions on which to base a coordinated, borough-wide, approach to mitigating the cumulative and cross-boundary impacts of growth.
- 3.18 For these reasons, LCC considers the Local Plan's transport evidence base and mitigation package to be the most appropriate foundation on which to base the draft approach to securing contributions to transport infrastructure across Charnwood, with the proviso that the approach can be reviewed and updated as and when any significant additional evidence emerges.
- 3.19 Conversely, LCC note, continued failure to secure such contributions would result in residual severe cumulative transport impacts, contrary to paragraphs 114 (a) and (d) and 115 of the NPPF.
- 3.20 It is this last reason that is at the crux of LCC's justification for the CTCS. It treats development collectively, rather than on its own merits. LCC say, that the development coming forward on allocated sites will cumulatively have a severe impact on the road network. Further, that in accordance with para 115 of the NPPF, individual developments should consider their cumulative impact. On that basis, each and every development will have a severe impact, which should be mitigated. The mitigation will be the transport interventions paid for by the CTCS.

4.0 DISCUSSION

- 4.1 It is acknowledged that deriving a package of Plan-level measures for a whole borough is not a simple task. Nevertheless, in this case, in our opinion the methods employed to derive the CTCS are problematic and will cause it to be challenged, as explained below. The CTCS is not based on robust evidence of appropriate and justified mitigation.

Collective treatment

- 4.2 At the highest level, there is a conflict with policy that says a development must be treated on its own merits. It cannot be said that every development in Charnwood would have a severe impact on the road network. Section 2 describes the requirement that, even where a formulaic approach is adopted, Planning Obligations must fund a project that is directly related to the individual development.
- 4.3 While it may be the case that cumulatively all the proposed development in Charnwood would cause certain junctions to become severely congested, it is not reasonable to say that therefore every development would have a severe impact that should be mitigated. Equally, it is not reasonable to take the blanket approach and say that therefore every development must contribute in order to become acceptable.

Scale of development

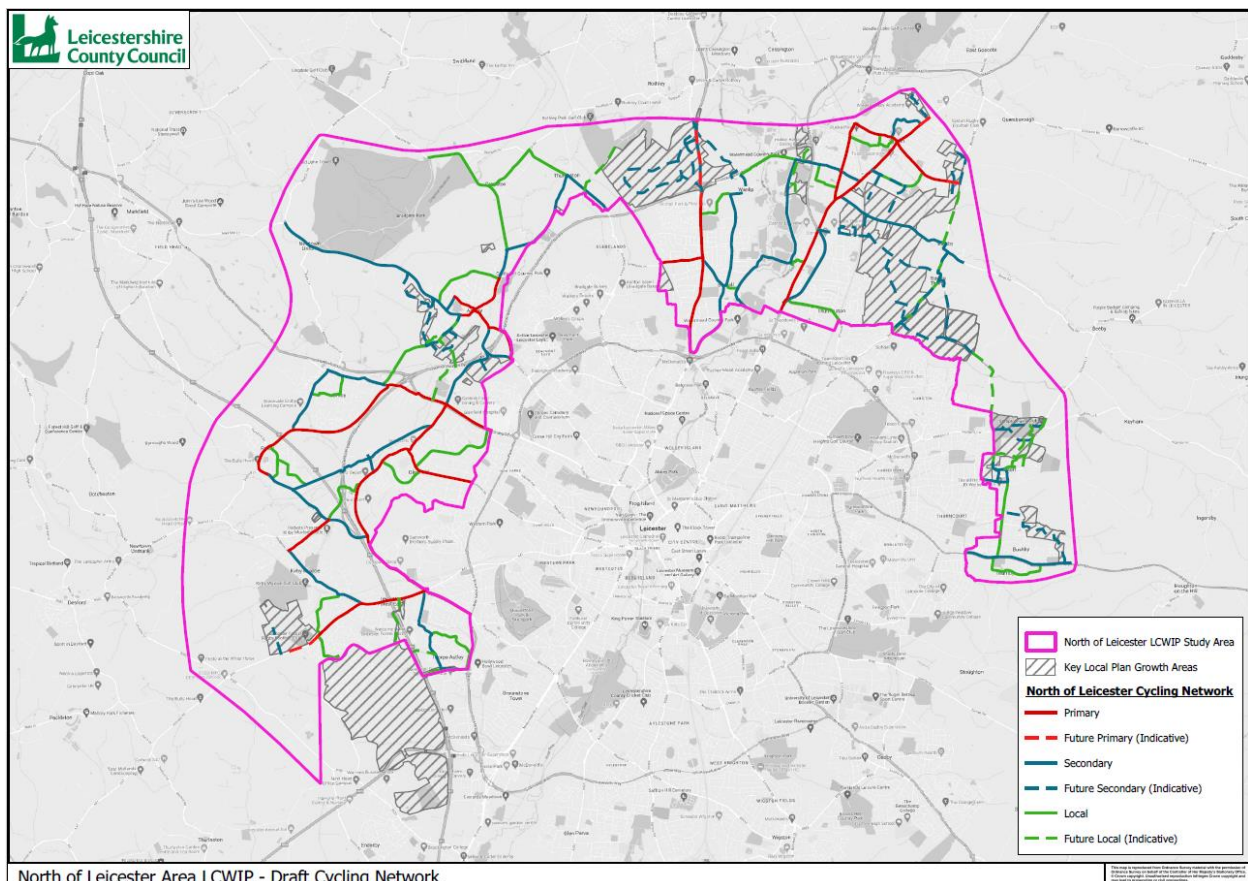
- 4.4 Linked to the point above, the CTCS takes insufficient account of scale. This is best illustrated through an example. Draft allocation HA69 (The former Rectory and Land at Thurstaston) is in the North of Leicester Area. It is allocated for development of 19 dwellings. There is an undetermined planning application for that site (reference P/22/1252/2) for which LCC have provided a consultation response, raising no objections subject to conditions. They conclude that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Despite that, LCC request a contribution, based on method (i) above, of £679,800 (= £35,778.93 per dwelling x 19 dwellings).
- 4.5 The Highways Report that accompanied the planning application determined that the 19 proposed dwellings would generate 15 and 13 traffic movements in the morning and evening peak hours respectively. That traffic was assumed to split evenly at the site access, so there would be increases of around 7 vehicles on the roads either side of the access. That increase is considerably below the 30 vehicles threshold used by LCC as a starting point to consider whether a development will have an adverse impact on the road network, let alone a severe impact.
- 4.6 The developer also proposed off-site footway enhancements, to ensure connectivity with the village centre. No off-site provisions were made for cyclists. Bus stops are within 300m of the centre of the site.
- 4.7 Therefore, despite a well located development of modest scale, it is caught in the formulaic approach that considers it would be part of the Local Plan growth that cumulatively has a severe impact on the road network.

Disproportionate cost of LCWIP

- 4.8 Local Cycling and Walking Infrastructure Plans (LCWIP) are gradually being adopted for areas across Leicestershire. Although pedestrian infrastructure has had due attention for many years,

cycle infrastructure has had less attention. Plus, the publication of LTN1/20 in July 2020 changed the design requirements for cycling infrastructure. For many years shared footway/cycleways have been incorporated within developments in Leicestershire. Segregated facilities are now the preferred option with share facilities only as a last resort. Segregated facilities require much greater land and come at considerably greater cost.

- 4.9 The wide spread provision of measures also seeks to catch up with the lack of facilities provided for decades. As such, the greatest part of the cost in an LCWIP is the cycle provisions, rather than pedestrian provisions. It also means the proposed measures are extensive. That is well illustrated by the North of Leicester area LCWIP, that has a cost attributed to it of £106.9m, which is 53% of the overall CTCS mitigation package.
- 4.10 Further the North of Leicester LCWIP is making up for past deficiencies, resolving an existing problem, and would be infrastructure that would benefit all residents in the North of Leicester not just the residents of the new developments. Therefore, it cannot be reasonable to attribute the whole cost of implementing that LCWIP to the allocated sites.
- 4.11 The Loughborough Area LCWIP was approved by LCC's Cabinet in November 2023. However, the North of Leicester Area LCWIP is a work in progress and not in the public domain. LCC's website says that public engagement on the final draft will be in Autumn/Winter 2025. It is therefore far from complete. An interim cost is therefore derived on the basis it will be similar to the South of Leicester Area LCWIP, which has been adopted. That is not a robust assumption.
- 4.12 The Draft Cycling Network element of the North of Leicester LCWIP is shown below. It clearly covers not just Charnwood, but also parts of Blaby District and Harborough District. The costing is unclear, but it would clearly be unreasonable for Charnwood residents to bear the costs of works in other districts.



The sustainability of a strategy area

- 4.13 Linked to the point above, there is a contradiction in the sustainability of the strategy areas and the amount they are expected to contribute. The North of Leicester area is the most sustainable, closest to the primary destination for the majority of journeys to work (central Leicester). For that reason, there is greatest potential to enable residents of the area to cycle. Hence the extensive proposals for the area, and the disproportionately large cost associated with the LCWIP. That might be acceptable if there was a correspondingly small contribution required for highway interventions attributable to that area. Instead, the North of Leicester area also attracts the highest cost for highway interventions.
- 4.14 This is in contrast to the Soar Valley strategy area, which is the least sustainable, having greatest reliance on the car, where the total costs of £12.8m are a tenth of those in the North of Leicester strategy area (£129.3m).

Paying twice

- 4.15 The issue of paying twice is not addressed by the CTCS. In other words, if a developer is paying a contribution, a large part of which is to introduce a cycle lane in an area, why should they introduce a cycle lane as part of their development proposal. They would be paying twice. The strategy is therefore likely to make developers reluctant to introduce works.
- 4.16 There is no mechanism in the CTCS for a reduction in contribution in cases where a developer proposes an intervention. LCC could say in response that a developer must provide what is necessary and directly related to manage the travel demand created by their development. However, that being the case, if they were not required to provide a cycle lane elsewhere, because it was being provided by the contribution, that would suggest it was not directly related to the development, or necessary to make the development acceptable.

Strategic modelling

- 4.17 The assessment of highway impacts has been undertaken using a strategic transport model. That is necessary given the scale of the area being assessed (Charnwood Borough). However, it means detail is lost and conclusions about impact are likely to differ when individual sites are subject to the much greater detail that is part of a Transport Assessment.
- 4.18 Again, that is best illustrated by way of an example. Draft allocation HA48 (Land off Willow Road, Barrow Upon Soar) is the subject of an undetermined planning application. Again, LCC have provided a consultation response raising no objection subject to conditions, and requesting a contribution in line with the CTCS.
- 4.19 However, the Transport Assessment produced for that development undertook a cumulative assessment considering all the allocated development in Barrow Upon Soar. Although the strategic transport model was used (PRTM), it was subject to more detailed scrutiny, applicable to the development management process. The result was a conclusion that there would not be adverse traffic impacts beyond Barrow Upon Soar, and hence not at the junctions where interventions are proposed to be paid for by development in the Soar Valley area (A6/A6004 One Ash Roundabout and A46/A6 Birstall Interchange).
- 4.20 In fact, the more detailed Transport Assessment found that there would be an impact requiring mitigation at another junction that does not form part of the CTCS, and was not identified as

problematic by the Borough wide cumulative development. This clearly calls into question the thoroughness of the findings of the CTCS.

A thorough assessment?

- 4.21 Related to the point above, about the thoroughness of the strategic modelling, there are several locations of known traffic congestion that have not been identified as requiring highway interventions. Those areas are already congested because of a lack of traffic capacity, and will become severely congested as a result of the Local Plan growth. They include, for example, Nanpantan crossroads on the western side of Loughborough, which early stages in the modelling work identified as problematic. Despite that, a mitigation scheme has not been identified for the crossroads.
- 4.22 They also include the A512 Ashby Road through Shepshed. The considerable growth in Shepshed resulting from the previous tranche of development resulted in an LCC commissioned Shepshed Transport Study. It identified capacity enhancements paid for by developer contributions along the A512 Ashby Road corridor that have since been implemented. However, the works merely mitigated that earlier tranche of development and Ashby Road remains congested. The considerable growth of Shepshed set out in the draft Local Plan will again worsen the already very congested Ashby Road. Despite that, it does not feature at all in the highway interventions required to mitigate the Local Plan growth.

Preliminary design status of schemes and cost estimating

- 4.23 The highway interventions in the CTCS are high level and have not been subject to the assessment and design rigour that would be required in a Transport Assessment process. It is very likely that the high level preliminary schemes currently identified will be subject to considerable change. For example, the known congestion at the A46/A607 Hobby Horse Roundabout is mitigated by a single improvement to only one approach, widening the current one lane wide slip road that turns left and northwards from the A46. The cost estimate of that scheme is £2.9m, which has a healthy contingency, and yet will still have many unknowns such as the cost of utility diversions.
- 4.24 Equally, LCC note themselves the costs for the LCWIP schemes are approximate. They say, “*The scale and complexity of the proposed LCWIP networks means that it would be disproportionate and prohibitively costly to prepare designs and cost estimates for every single corridor of the networks at this stage. Therefore, the LCWIP cost estimates have been derived from preliminary conceptual design work and cost estimates for selected priority corridors within the relevant LCWIP area and Active Travel England cost bench marking data, which represents the most robust and proportionate approach at this time.*”
- 4.25 That is reasonable, but gives considerable scope for cost variation, particularly as much of the proposed cycle network is in urban areas where there is a lack of spare land, footways and carriageways will be altered, and there could be significant costs associated with utility diversions.

Cross border impacts

- 4.26 The strategic traffic modelling that was undertaken tried to isolate the impacts caused by the traffic generated by the Charnwood allocations. However, at a strategic level that is relatively inaccurate. The performance of any junction is caused by two interacting factors. The amount of traffic already passing through the junction, and hence the residual capacity, and then the

additional traffic that is added on top by the development, and hence the deterioration in performance.

- 4.27 Traffic does not confine itself to borough council borders. For example, new residents in North West Leicestershire travelling through Charnwood to Leicester will increase background traffic and reduce the residual capacity. Traffic will also travel between and through the different strategy areas. For example, traffic from the Soar Valley area will route through the North of Leicester area to reach Leicester city centre. Thus, congestion at junctions in the North of Leicester area is not necessarily directly related to new residents of houses built in the North of Leicester area.

Improving buses

- 4.28 Although it is only a small part of the total cost, the contributions towards buses are to reverse decisions made by LCC as a result of funding cuts. Bus services throughout Leicestershire have declined, and it is unreasonable for new developments in Charnwood to overcome that existing deficiency.
- 4.29 The proposed Demand Responsive Transport services would cater for all residents in the area they are introduced, and not just those of the new developments. Such services are rarely viable, and are largely to ensure accessibility to facilities for those who cannot drive, rather than being a measure that mitigates severe peak hour traffic congestion.

Shortfall in funding

- 4.30 As noted above, even if LCC were to gain the maximum possible funding they request from all allocated sites, there would be a 62% shortfall of £124.8m from the amount required to fully-fund the mitigation package. The shortfall will be considerably greater, because various allocations already have consent, and viability appraisals on other sites are likely to demonstrate that the full contribution is not viable.
- 4.31 In a situation where less than half of the mitigation package can be implemented, prioritisation will be required. It is highly likely that measures directly related to some sites will not be delivered. The CTCS is silent on phasing, and therefore less than robust.
- 4.32 LCWIPs were partly derived as a means by which local highway authorities could apply for Government funding. Should LCC gain Government funding, the balance to be found from developer contributions would reduce. That could lead to the inequitable situation where LCC is paid twice for implementing a piece of cycling infrastructure.

5.0 CONCLUSIONS

- 5.1 This paper summarises the Charnwood Transport Contribution Strategy. It recognises that attempting to mitigate the dispersed borough wide transport impacts is not simple. Nevertheless, the methodology chosen by Leicestershire County Council is problematic and subject to challenge.
- 5.2 Treating the proposed development collectively, and saying that cumulatively it would have a severe impact, and therefore each individual development would have a severe impact, is not a reasonable argument. A number of the aspects of the mitigation package would not be directly related to the developments to which they are attributed. They would not be necessary to make the development acceptable.
- 5.3 Certain of the measures would also be disproportionate and not fairly related in scale to the impact of the development. The LCWIPs in particular make up a significant amount of the package cost, yet mainly address a deficit in infrastructure provision unrelated to the allocations. In certain places where measures would be expected, such as highway interventions along the A512 Ashby Road in Shepshed, they are missing.
- 5.4 Overall, therefore, in transport terms it cannot be concluded that the CTCS sets out robust evidence of appropriate and justified mitigation.

Charnwood Local Plan

Response to Charnwood Transport Contributions
Strategy Viability Report



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1. Introduction

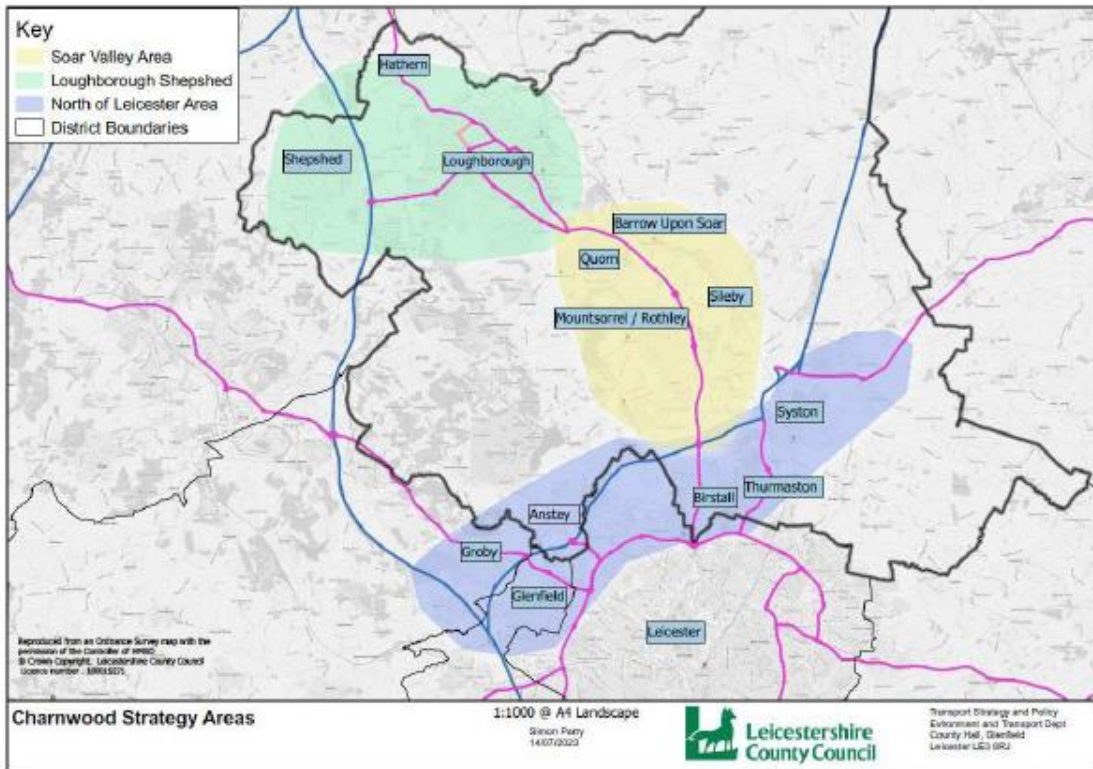
- 1.1.1. Savills has been appointed by a consortium of housebuilders and land promoters to provide viability advice in connection to the recently published “Draft Charnwood Transport Contributions Strategy” (CTCS).
- 1.1.2. We have not provided any viability representations to the Charnwood Local Plan thus far; however, we are well versed in responding to Local Plan viability representations and have reviewed the previous work (as relevant) by Aspinall Verdi to inform this response.
- 1.1.3. We have only provided a response with regard to the approach and assumptions for the viability assessment carried out by Aspinall Verdi. This is not a legal response as to the validity of the contributions sought from a legal or transport requirement perspective.
- 1.1.4. The report is structured as follows:
- Chapter 2 provides a high level indication as to the background and methodology for the viability assessments carried out by AV;
 - Chapter 3 provides our comments on the assumptions used; and
 - We conclude our findings in Chapter 4.

2. Background and Methodology

- 2.1.1. Aspinall Verdi (AV) is appointed by Charnwood Borough Council (CBC) and Leicestershire County Council (LCC) to provide a Financial Viability Assessment (FVA) with regards to LCC's draft Charnwood Transport Contributions Strategy (CTCS). AV has previously been appointed to undertake the viability work for the Charnwood Local Plan 2021 – 2037 but make the point that whilst the assessment (the FVA for the draft CTCS) is distinct from the work undertaken for the Local Plan, although "inevitably has some relationship to these studies given the subject matter and location".
- 2.1.2. We understand that there have been various Viability Assessments produced by AV that have been undertaken as part of this process;
- Charnwood Local Plan Viability Study (February 2021)
 - First Transport Addendum Report (May 2021)
 - Second Transport Addendum Report (originally done in May 2022, but superseded by a June 2022 report)
 - Local Plan Examination Report (not published at that time) and attendance (February 2023)
 - Consolidated Addendum report of all the previous work (August 2023)
- 2.1.3. Since the August 2023 report, we understand that LCC have been carrying out additional work on the transport contributions, and that AV have been commissioned to provide additional viability evidence to support requests from LCC regarding the delivery of the transport strategies that form the basis of the Local Plan's transport mitigation strategy, as set out in the CTCS.
- 2.1.4. We understand that the 2024 FVA has the following changes:
- Updated market values
 - Updated BCIS costs and assumptions
 - Updated typologies based on new site allocations
 - Assessed suitable levels of transport contributions
- 2.1.5. We discuss the updated market values, costs and other assumptions in the following section.
- 2.1.6. There are three broad market areas, which are show in the below map.

Figure 2.1 – Charnwood Transport Strategy Area (Aspinall Verdi, July 2024)

Figure ES.1 – Charnwood Transport Strategy Areas 2024



Source: Charnwood Borough Council (2024)

2.1.7. It is stated within the 2024 FVA that the local plan allocations that will come forward for development sit in the above Transport Strategy Areas (TSA). It is also stated that:

The transport strategies are required to address the cumulative and cross-boundary transport impacts arising from the Charnwood Local Plan’s spatial strategy. These contributions will facilitate the provision of the necessary strategic infrastructure required to address the cumulative impacts and to enable sustainable development to be brought forward in Charnwood (para 1.10, page 2)

2.1.8. We therefore focus our response accordingly on the TSAs, although note that there are areas of the Borough that are not included. It is also important to note that the report only looks at residential development, and therefore it is assumed that only new residential development in the Borough would incur the costs for the required transport infrastructure.

2.2. Methodology

- 2.2.1. The report does follow the guidance in the PPG, which states that a “typology” approach should be used (our emphasis):

*A typology approach is a process plan makers can follow to ensure that they are creating realistic, **deliverable policies** based on the type of sites that are likely to come forward for development over the plan period.*

In following this process plan makers can first group sites by shared characteristics such as location, whether brownfield or greenfield, size of site and current and proposed use or type of development. The characteristics used to group sites should reflect the nature of typical sites that may be developed within the plan area and the type of development proposed for allocation in the plan.

Average costs and values can then be used to make assumptions about how the viability of each type of site would be affected by all relevant policies. Plan makers may wish to consider different potential policy requirements and assess the viability impacts of these. Plan makers can then come to a view on what might be an appropriate benchmark land value and policy requirement for each typology.

*Plan makers will then engage with landowners, site promoters and developers and compare data from existing case study sites to help ensure assumptions of costs and values are realistic and broadly accurate. **Market evidence can be used as a cross-check** but it is important to disregard outliers. Information from other evidence informing the plan (such as Strategic Housing Land Availability Assessments) can also help to inform viability assessment. Plan makers may then revise their proposed policy requirements to ensure that they are creating realistic, **deliverable policies** (PPG - 10-004-20190509)*

- 2.2.2. However, our main concern is that the assumptions used to inform the viability assessments are not reflective of the market, and thus the policies that are being proposed as a result of these assessments (in this case the transport contributions) are not realistic nor deliverable.

3. Appraisal Assumptions

- 3.1.1. As stated, we have not previously provided viability comments on work done by AV on the Local Plan, and therefore our comments relate solely to the assumptions in the July 2024 report.
- 3.1.2. It is important to note that the viability report only looks at greenfield residential development, and therefore it is assumed that only new greenfield residential development in the Borough would be required to contribute to the Transport contributions.
- 3.1.3. We would recommend that other forms of development, including commercial (including offices and industrial) and specialist residential, for example older person housing, should also be looked at in terms of their ability to make contributions to the required transport infrastructure. We also note that brownfield land was examined in the 2023 FVA, but does not appear to have been looked at in the 2024 report.
- 3.1.4. By placing the emphasis solely on greenfield residential development this suggests that it is only greenfield residential development that generates additional transport requirements. This is simply not the case. There is a danger that this will burden residential development to the extent that schemes become unviable and unable to be delivered whilst other forms of development do not incur the same burden of cost, and are perhaps more viable but are not required to contribute to the proposed transport infrastructure.

3.2. Development Values

- 3.2.1. The AV report breakdowns the wider area into three broad areas (as discussed in the previous section), and have used the Land Registry Index to update the sold values for new build developments. We understand this process, and note that this is industry standard practice. However, there are also well publicised delays with Land Registry data, with often time lags of 6-9 months for individual properties being registered on the database. There is, thus, a danger that the nature of the residential market is not being truly reflected.
- 3.2.2. We also note that “where there was a limited data-set, we reviewed new-build developments that are currently on the market to “sense-check” our value assumptions against actual asking prices for new-build properties” (para 6.6, page 21). Again, this is standard practice, however we caution on too much reliance on this as asking prices are exactly that – they are not the true achieved price for the property, with discounts from asking price of 3-5% often achieved (if not more in some cases).
- 3.2.3. One of the key changes from the August 2023 report to the July 2024 report is the refinement of the areas into the aforementioned three areas. We raise a concern that this is “missing” part of the Borough, although acknowledge that these areas are the main areas of likely development. It does however raise a query of what would the transport contribution rate be for those areas.
- 3.2.4. Broadly the conclusion of the analysis from AV is that the house prices have increased by 10-25% in the North of Leicester Area and Loughborough / Shephed area. However, a check of the Land Registry House Price Index for Charnwood shows that over the same time period house prices decreased by 4.62%. Whilst we understand that the AV review focused on new build only, this contrary trend of all house prices suggests it is unlikely that a house price increase of 10-25% is supported.

3.3. Development Costs

3.3.1. We provide comments on selected assumptions below:

Table 3.1 – Selected Development Costs from the 2024 FVA

Item	July 2024 Transport Contributions Viability (AV)	Savills Comment
Other CBC / LCC s106 Contributions	A rate of £20,805 per unit based on previous s106 contributions plus an allowance for education but does not include any transport contributions (to avoid double counting)	We note that in the August 2023 report a range of £14,644 - £15,813 per dwelling was applied (depending on area), however, there is no real explanation or evidence as to where the additional £4,992 - £6,161 per unit for education has come from.
Estate Housing (build costs)	<p>Typologies of <74 dwellings - £1,468 per sq m (median BCIS rebased to Charnwood)</p> <p>Typologies of > 75 dwellings - £1,293 per sq m (lower quartile BCIS rebased to Charnwood)</p>	<p>We agree with the differentiation between the size of sites, as larger sites can take advantage of economies of scale.</p> <p>However, we note that since the August 2023 report, there has been a change from rebasing to the East Midlands (August 2023) to Charnwood (July 2024).</p> <p>For comparison, the East Midlands rates would be:</p> <ul style="list-style-type: none"> - Median BCIS – £1,519 per sq m - Lower Quartile BCIS - £1,336 per sq m <p>These costs are 1.75% - 3.47% higher than the previous report, and we question as to why there has been a change, as the inclusion of the same rate as the August 2023 report would have a significant impact on the viability of the scheme.</p> <p>This comment also applies to the use of rates for Flats 3-5 storey build costs.</p>
External Works	<p>Apartment Schemes – 5%</p> <p>Sites < 74 dwellings – 10%</p> <p>Sites > 75 dwellings – 20%</p> <p>This externals allowances includes generic “on-plot” costs including inter alia: estate roads, pavements, street-lights, utilities, drainage etc</p>	<p>The above BCIS costs do not include site costs, but consider that in addition to external works that an allowance should also be included for site works.</p> <p>We note that we typically experience external costs ranging from 10% - 20% of base build cost which is not only most consultants and developer assumptions but that of Homes England.</p> <p>This includes external plot works such as drive, fences, walls, or turf. Additional costs would be incurred where policy requires extra enhancements (for example design codes or sustainability requirements).</p> <p>However, externals does not include site works or utilities, and thus we consider an additional allowance should be included in the appraisals.</p>

Item	July 2024 Transport Contributions Viability (AV)	Savills Comment
Contingency	<p>3% of the above construction costs for greenfield sites.</p> <p>Higher contingencies are sometimes included in site specific appraisals, but these are generally for specific abnormal costs or ground conditions which are not part of a high level plan wide viability assessment.</p>	<p>Build costs are currently rising at a significant rate due to materials and labour shortages and ever increasing complexities of schemes delivery which all erode contingency. Particularly for large and strategic sites, there are many unknown costs which are not known until construction begins or even until scheme completion and so a higher contingency to cover for this should be applied. Given the nature of the time it takes to develop out larger strategic schemes, there is also a need to continue to apply this contingency throughout the development timeframe to reflect changes in the market and regulatory environment.</p> <p>We are concerned with any contingency applied below 5% for any site, particularly at allocation stage. We would therefore suggest 5% on “previously undeveloped and otherwise straightforward sites” and a higher rate of 8-10% on brownfield or larger strategic sites.</p>
Professional Fees	<p>7.0% - these are construction related professional fees as opposed to the “Planning Application Professional Fees and Reports” professional fees included above at the feasibility stage.</p>	<p>We commonly experience 8-12% of all build costs (base, externals, infrastructure and abnormal) as a standard industry professional fee requirement. Brownfield and strategic sites are more complex and may incur costs exceeding 12%, and be spread over a number of years.</p>
Finance Costs	<p>6% interest rate (applies to 100% of cashflow to include finance fees etc)</p>	<p>We accept the difficulty of setting an appropriate finance rate under a constantly changing economic climate and considering different financing methods across developers. However, we consider that 6% is too low in the current economic climate, and that a rate of 8% is considered more market facing. We also note that this is the same rate that was used in the 2021 report, where the base rate was 0.1% compared with the current rate of 5%.</p> <p>Furthermore, an arrangement fee is typically required for loans from corporate lenders. This can be anywhere from 0.5 – 1.5% of the loan, and will be reflective of the nature of the loan and the perceived risk of the development. For clarity, we do not consider this to be included in the 6% rate.</p>

3.3.2. In addition, we consider there are some assumptions that have not been included that are common in development appraisals for sites, and by excluding them there is a danger that the schemes are being shown as more viable than they truly are, and thus, the schemes are able to accommodate more developer contributions than they realistically could.

3.3.3. Prep / site works

In addition, we would also argue that a separate site preparation value of £150,000 - £250,000 per gross acre (£371,000 - £617,000 per hectare) should be applied for residential uses, noting that this is dependent on individual site characteristics. For clarity this would exclude any abnormally large service roads or strategic infrastructure which does not directly serve plots.

3.3.4. Garages

There does not appear to have any reference to the cost of garages, which in our experience can be an additional £7,000 – £12,000 expense.

3.3.5. EV Charging Points

This is an additional cost that needs to be considered as more and more developments require EV charging points for vehicles. We note that this was previously used in the August 2023 report, but does not appear to be included in this report.

3.4. Land Value (Benchmark Land Value)

3.4.1. This is acknowledged as always being a difficult area of evidence, not least due to the fact that the majority of land that is transacted is done so with the potential for development, and the price paid for this is disregarded as the basis for the BLV in accordance with PPG (our emphasis):

*Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use. **Existing use value is not the price paid and should disregard hope value.** Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield (**excluding any hope value for development**).*

Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence. (PPG 10-015-20190509)

- 3.4.2. However, there are some concerns with the data used (which we have not seen), where transactions are limited and there does not seem to be clear explanation as to how the uplift has been calculated, with no “step back and seeing if it is reasonable” as is best practice.
- 3.4.3. We note that the Savills Greenfield Development Land Value Index shows a decrease of 2% in land values in the Eastern Region from August 2023 to July 2024, which appears to be contrary to the increase in land values presented by AV in the FVA:

Table 3.2 – Comparison of BLVs from August 2023 to July 2024

	August 2023 FVA			July 224 FVA			
	EUV – per ha (net)	Uplift Multiplier	BLV – per ha net (rounded)	EUV – per ha (net)	Uplift Multiplier	BLV – per ha net (rounded)	Change
Agriculture Land Greenfield < 74 dwellings	£23,961 –(assuming 83% net to gross)	12.5	£296,520	£23,961	15 - 17.5	£370,650 £420,070	-25 - 41.67%
Agriculture Land Greenfield 75+ dwellings	£31,629 –(assuming 63% net to gross)	12.5	£395,360	£31,629	15 – 17.5	£469,490 £543,620	-18.75 - 37.5%

- 3.4.4. This shows that BLVs have increased by 18.75% to over 40% in some areas, with no real explanation as to why the uplift has increased nor cross checked with real world evidence.
- 3.4.5. We also note that the net to gross ratio varies from 63% - 85%, which we do not agree with. This is too simplistic and by adopting this there is a danger that site specifics such as ground conditions, SuDs, topography and others are not taken into account, which may suggest that sites that do not “achieve” the required ratio are in danger as being presented as viable (by having a lower BLV).

4. Conclusions

- 4.1. Aspinall Verdi state that “all the tested greenfield sites are viable given that there is a development surplus from which we have calculated the TSA s106 as an output” (para 8.2, page 38). However, as we have demonstrated in our response, we have some concerns with the various assumptions that overstate the values, and under play the costs, associated with development.
- 4.2. We consider that there is little evidence to support the 10-25% increase in values, and that whilst there is refinement to some of the areas, there is a danger that a large part of the Borough has been forgotten. The costs do not include a number of key development outlays, and some assumptions in our opinion are too optimistic. There is also little explanation as to why the BLVs have increased by 18.75% to over 40% in some cases.
- 4.3. There is thus a real danger that the results of the viability assessments are presenting schemes which appear to be viable by over stating values and under stating costs, and that in reality they would not be the ability to afford the required transport contributions. This would open up a scenario where at decision making stage, viability assessments for individual sites are required, which could seek to reduce the overall planning obligation package (including affordable housing). We do not consider that the results presented by AV demonstrate that the development schemes assessed can be conclusively said to be viable when there are a number of significant costs that have been under estimated.
- 4.4. We also consider that non-residential development should be considered to also contribute to the transport infrastructure. In the AV report there is only greenfield land that is assessed, with no reference for brownfield land nor non-residential development (such as commercial). This is placing a greater burden on a particular typology of site and we request that other forms of development are also considered.
- 4.5. We therefore request that the approach to viability under the CTCS is reconsidered, and as a result so is the approach to the CTCS.

Sarah Gregory
Director

+44 (0) 121 634 8480
+44 (0) 7790 999 496
sgregory@savills.com



Ministry of Housing,
Communities &
Local Government

Matthew Pennycook MP

Minister of State
2 Marsham Street
London
SW1P 4DF

Paul Morrison
Chief Executive
The Planning Inspectorate

30 July 2024

By email

Dear Paul

The Government knows how essential it is that local authorities have an up-to-date local plan in place as a basis for making sustainable decisions about the future of our cities, towns and countryside. We are committed to the plan making system; it is the right way to plan for the growth and environmental enhancement our country needs – by bringing local authorities and their communities together to agree the future of their areas.

I fully recognise the crucial role that the Planning Inspectorate plays in this, through the examination of plans impartially and publicly to ensure that they are legally compliant and sound. The work that the Inspectors do through Advisory Visits also helps to ensure those plans that are submitted have the best chance of being found sound.

However, we cannot ignore the fact that the length of examinations has been increasing, from 65 weeks on average in 2016 to 134 weeks in 2022.

In 2015, the Government set out an expectation that Inspectors should operate "pragmatically" during local plan examinations to allow deficient plans to be 'fixed' at examination. This has gone too far and has perversely led to years of delays to local plan examinations without a guarantee that the plans will ever be found sound, or that the local authorities will take the decisions necessary to get them over the line. This has to end.

Section 20 of the Planning and Compulsory Purchase Act 2004 provides that a local planning authority must not submit a local plan unless they have complied with relevant legislative requirements, and they think the plan is ready for independent examination by a Planning Inspector. Accordingly, an authority should not be submitting for examination a deficient plan believing the Inspector will use significant time and resource during the examination to 'fix' it.

Noting this concern, there is a role for Inspectors in ensuring plans that are submitted are capable of being found sound, which is why I would strongly encourage the Planning Inspectorate to continue supporting local authorities through Advisory Visits to ensure effective preparation for the examination process.

I also want to empower Inspectors to be able to take the tough decisions they need to at examination, to ensure they can focus their time on those plans that are capable of being found

sound and to realise this Government's aim of universal plan coverage. For this reason, I am writing formally to set out the Government's expectations on how examinations should be conducted in this respect.

Pragmatism should be used only where it is likely a plan is capable of being found sound with limited additional work to address soundness issues. Any pauses to undertake additional work should usually take no more than six months overall. Pragmatism should not be used to address fundamental issues with the soundness of a plan, which would be likely to require pausing or delaying the examination process for more than six months overall. Local authorities should provide regular progress updates of their work to the Planning Inspector during any agreed pause.

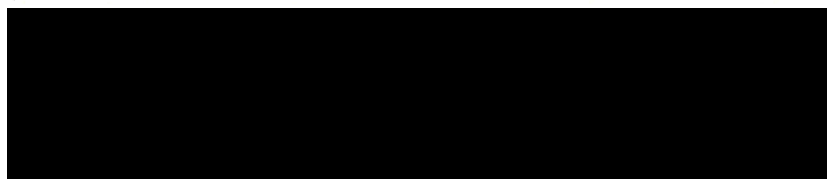
Any extensions to the six-month pause should only be allowed at Inspectors' discretion to deliver adopted local plans under the current system. In agreeing extensions, the Inspector should be confident that the local authority can complete any outstanding work in the agreed timeframe.

This new approach will apply to all plans with immediate effect. Existing pauses already agreed by an Inspector should remain in place unless the Inspector considers there is insufficient progress being made.

This will enable Inspectors to focus their valuable time and resources on those plans that are capable of being found sound and can be adopted quickly to provide certainty to local communities. Where a plan is unable to be found sound, the local authority will need to work in partnership with their local community to bring forward a new plan.

I would be grateful if you could ensure that Inspectors are aware of these changes and that you update your procedural guidance and support to Inspectors accordingly, as they continue their critical role in examining plans to support our ambition of universal coverage of local plans.

Yours sincerely,

A large black rectangular redaction box covering the signature area of the letter.

MATTHEW PENNYCOOK MP
Minister of State



The Planning Inspectorate

3rd Floor
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5443

Email: Paul.Morrison@planninginspectorate.gov.uk

Matthew Pennycook MP, Minister of State
2 Marsham Street,
London,
SW1P 4DF

Date: 1 August 2024

Sent by email to:
PSMatthewPennycook@communities.gov.uk

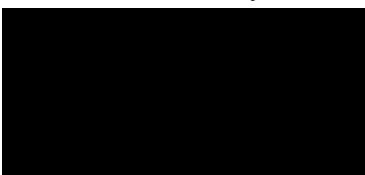
Dear Matthew,

Thank you for your letter of 30 July 2024.

You are right to note that implementing pragmatism in the way expected by the Government since 2015 has led to delays in local plan examinations. In many cases, the extent of delay has been significant, running into years, and in some exceptional cases examinations have consequently taken five or six years to complete. Notwithstanding the intention of pragmatism, its operation has not infrequently led local communities to be poorly served by the system. This has been a source of frustration for me and my Inspectors. I therefore welcome the new expectations that your letter sets out. I am making all examining Inspectors aware of this change. They will be briefed, and our procedure guide and other relevant material will be updated accordingly.

It is inescapable that this fresh approach will lead to an increase in local plans being recommended for withdrawal from examination or being found unsound. But that should not be seen as any sort of failure of pragmatism or of the system more generally. On the contrary, withdrawing from examination opens up the space for local authorities to genuinely work with their local communities, local businesses and others to rectify problems with their local plan in an open-minded way that is almost impossible in the context of an ongoing examination. Moreover, it can be quicker to local authorities to resolve soundness problems outside the formalities of the examination process. To that end, we will continue to support those authorities that wish us to undertake an Advisory Visit, whether they are preparing a wholly new plan or re-visiting a plan that has failed to progress through the examination to adoption.

Yours sincerely,



Paul Morrison CBE
Chief Executive

CHARNWOOD LOCAL PLAN
LOCAL DEVELOPMENT SCHEME

MARCH 2024 TO MARCH 2027

MARCH 2024

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1. Introduction

- 1.1. The Charnwood Local Development Scheme sets out the Borough Council's programme for the preparation and production of the new Charnwood Local Plan, Supplementary Planning Documents and other related documents that support the delivery of planned-for growth across the Borough.
- 1.2. Local plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities. They set the development strategy and policies for delivering the vision of the area. Having an up-to-date local plan is important because applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this respect, local plans provide clarity for development proposals and a degree of predictability for the community.
- 1.3. Charnwood Borough Council is committed to maintaining an up-to-date local plan in accordance with National Planning Policy Framework. The programme set out in this Local Development Scheme covers the period from 2024 until 2027. It identifies the stages the Local Plan will go through and the timetable for key activity.

2. Local Plans

- 2.1. The current development plan for Charnwood is made up of the Core Strategy (2015) and the detailed 'saved' policies from the Borough of Charnwood Local Plan (2004)¹. The Core Strategy sets the strategic planning framework for Charnwood for the period 2011-2028.
- 2.2. Whilst the proposals in the Core Strategy provide for the period up to 2028, and the strategic growth sites contained within it will continue beyond 2028, the Council has a duty to maintain an up-to-date local plan. Consequently, the Council is preparing a single Charnwood Local Plan document to replace the Core Strategy and to replace the remaining 'saved' policies from the Borough of Charnwood Local Plan.
- 2.3. The Local Plan also identifies the need to prepare Supplementary Planning Documents to provide guidance on how certain policies should be interpreted and implemented. These are included in this programme.
- 2.4. Progress made on the Charnwood Local Plan is published each year in the Council's Authority Monitoring Report, which provides details on the Borough Council's performance in meeting the objectives set out in this Local Development Scheme.
- 2.5. The planning system uses a raft of technical names for different documents and the status they have. Although every attempt has been made to avoid technical terminology there are occasions where names which have a legislative meaning are used. Where this is the case a glossary of terms is provided at Appendix C to assist the reader. The relationship between different documents is shown in Appendix A.

¹ The minerals and waste local plans prepared by Leicester City and Leicestershire County Councils, and made neighbourhood plans, also form a part of the development plan for Charnwood

3. Programme of work for 2024 - 2027

Local Plan

- 3.1 The Borough Council's immediate priority within the three-year period is to conclude the examination of the new Local Plan; to have it found sound; and subsequently have it adopted.
- 3.2 The emerging new Local Plan builds upon the strategy contained within the Core Strategy, setting out the strategic and detailed policies to deliver the Borough Council's vision for Charnwood up to 2037. It takes account of the commitments for housing, employment, and other developments across Charnwood, including the existing strategic allocations for Sustainable Urban Extensions and the Loughborough University Science and Enterprise Park. It identifies and allocates further sites in the borough needed to meet the needs of the community, including specific site allocations for development, and designations that reflect special character or that require protection. It also sets out specific planning policies and criteria against which planning applications for the development and use of land and buildings will be considered. The emerging new Local Plan will include a policies map for the whole Borough. Full details of the new Plan, its progress and its process milestones are set out under Appendix B.
- 3.3 The emerging new Local Plan responds to the Leicester and Leicestershire Strategic Growth Plan which has been prepared and approved by all ten partner organisations. The Strategic Growth Plan was approved by the Borough Council on 5th November 2018.
- 3.4 Early public consultation was undertaken on the scope of the new Local Plan in 2016, in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. During April 2018 further public consultation was undertaken on the issues and options available for the new plan. This was entitled 'Towards a Local Plan for Charnwood'. A Draft version of the new Local Plan was prepared and consulted upon during November 2019. Subsequently, the Borough Council prepared a Pre-submission version of the Local Plan. This was the subject of public consultation, in accordance with Regulation 19 of the Regulations, during Summer 2022. A copy of the Pre-submission draft Local Plan is available to view on the [Borough Council website](#).
- 3.5 Following the close of the public consultation on the Pre-submission version, the Borough Council formally submitted the draft Local Plan to the Secretary of State for the purpose of examination in public on 3 December 2021. The Local Plan hearing sessions were held over four separate hearing sessions. Hearing sessions held during June and February 2023 discussed the content of the Plan under Matters 1-9; these covering the full range of topic areas, including the development strategy, housing need, development site allocations, infrastructure, planning policies and full plan viability. The October 2022 sessions supplemental to the original itinerary. These additional sessions were convened to discuss the strategic context under

which the new local plan evolved during 2022. These discussed the Leicestershire Statement of Common Ground, the Housing and Economic Needs Assessment (the HENA) and its supporting documents. Following the closure of the February 2023 hearing sessions a letter was received from the Inspectors on the 23 May seeking further information and updates to the evidence base. These updates to the evidence base were consulted on during October/November 2023 and further hearing sessions held in February 2023 concentrating on the following areas of the plan Sustainability Appraisal (Matter 2), infrastructure and transport (Matter 8), Viability and monitoring (Matter 9) and Housing land supply (Matter 7).

Leicester and Leicestershire Strategic Growth Plan

- 3.6. Charnwood is part of a wider housing market area that covers Leicester City and all the other Leicestershire authorities. This provides the context under which local planning authorities across the area can work together to understand the need for new homes and jobs with the objective of meeting these needs through their local plans in a coordinated way. A Strategic Growth Plan has been prepared which sets out the number of homes and jobs needed and the agreement on their distribution across Leicester and Leicestershire between 2011 and 2050. A Strategic Growth Statement was published in Summer 2016 and a draft plan was the subject of consultation in Spring 2018. Following consultations with residents, businesses, organisations, and other key stakeholders the Growth Plan was approved by all councils at a series of meetings held during November and December 2018.
- 3.7. The relationship between the Charnwood Local Plan and the Strategic Growth Plan is an important one, as the Local Plan takes its lead from the Growth Plan's broader strategy – particularly in terms of the numbers of new homes and jobs required in Charnwood. The development strategy for Charnwood is a key component of the Local Plan and can only be identified and tested now the Strategic Growth Plan has been approved. The Borough Council will continue to be engaged in this strategic work during the period covered by this Local Development Scheme. The Borough Council signed the Statement of Common Ground on the 9 June 2022. This Statement has been agreed by all the authorities in Leicester and Leicestershire apart from Hinckley and Bosworth Borough Council. The relationship between the Charnwood Local Plan and the Strategic Growth Plan is recognised in the risk assessment in Section 5.

Local Plan Programme to Adoption

- 3.8. The Borough Council becoming a signatory of the Statement of Common Ground had a consequential impact upon the Charnwood Local Plan process. The previous Local Development Scheme had envisaged the Local Plan Examination hearing sessions to take place during Summer 2022. However, upon commencement, the Inspectors immediately determined that for procedural reasons it was necessary to pause the Sessions. This was because the Borough Council had during the opening day on 28 June 2022 stated the intention to respond positively to the apportionment of some of Leicester City's unmet housing and employment needs, as per the agreement through the Statement of Common Ground.

- 3.9. The pause in the examination concluded with an additional set of Hearing Sessions during October 2022 to discuss the apportionment of Leicester City's unmet needs and the implications for the Borough's housing and employment needs. The successful conclusion of these additional Sessions allowed for the examination to resume, with the Hearing Session that had originally been planned for Summer 2022 taking place during February 2023. Following on from the hearing sessions the Inspectors requested some further information and updates to the evidence base, a consultation was held on these technical documents between September and November 2023, with further hearings based on these technical documents with a focus on the Sustainability Appraisal (Matter 2), Housing Land Supply (Matter 7), Infrastructure and Transport (Matter 8) and Viability and Monitoring (Matter 9) were held in February 2024.
- 3.10 Based on information available to the Borough Council a reasonable timetable for progressing the new Local Plan through to the completion of the examination and on towards adoption is:
- - Publication of Inspectors' Final Report – October 2024
 - Adoption – November/ December 2024
- 3.11 The suggested timeline assumes that there are no further examination hearing sessions and that the process subsequently moves toward consultation on modifications without any further impediment.

Supplementary Planning Documents

- 3.12 The role of Supplementary Planning Documents (SPDs) is to provide guidance on how existing planning policy should be used and interpreted when developing proposals and taking decisions on planning applications. The Core Strategy generated the production of two SPDs, which provided additional guidance on the implementation of its design and housing policies. Following the adoption of new Charnwood Local Plan, it is anticipated that these two SPDs will fall away, as the parent policies contained within the Core Strategy will have been superseded. The new Local Plan includes policies relating to the design of new development. It also incorporates, under an annex, much of the key guidance on how these policies will be implemented through decision-taking. Local Planning Authorities have a requirement under the Levelling Up and Regeneration Act 2023 to produce an authority wide Design Code and this can be part of the Local Plan or a Supplementary Plan. Further legislation is required before the preparation of the Design Code can commence, which is expected during this LDS period, and therefore the commencement of the preparation of an authority wide code will be kept under review.
- 3.13 There are three new SPDs identified for preparation and production over the three-year period covered by the Local Development Scheme. These seek to provide additional planning policy guidance on housing, biodiversity and planning obligations. All of these documents are linked and dependent upon parent policies contained within the emerging new Charnwood Local Plan. Although the Borough Council is initiating their preparation and production during the first year of the new

Local Development Scheme, their latter stages, particularly public consultation, will need to take place after the formal adoption of the new Local Plan has taken place. Consequently, those latter stages are anticipated to take place in winter 2024/25 at the earliest.

- 3.14 The first of the new SPDs will focus on Housing issues. It will seek to inform and provide guidance to decision-taking in relation to proposals that meet specific aspects of the Borough's housing need. Its full scope will be guided by the Borough Council's corporate priorities and the evolving decision-taking experience. It is anticipated that it will include guidance on housing mix of size and tenure, specialised forms of housing, space standards, and the delivery of new affordable homes. For example, the SPD could consider the introduction and delivery of First Homes and other similar products and how these can be incorporated into the delivery of planned-for growth so that they effectively meet genuine local need.
- 3.15 The Borough's dynamic growth environment, particularly in respect of new residential development proposals, has accelerated the need for the new Housing SPD. Initial work has already commenced on the SPD and based on the anticipated Local Plan timeline this could provide an opportunity for public consultation during the end of 2024 to early 2025 and formal adoption of the SPD during spring 2025.
- 3.16 The proposed new Biodiversity SPD will seek to provide guidance on how the Borough Council will secure compensation for the loss of biodiversity from new development proposals and net gain required by legislation. It will build and expand upon an existing interim guidance document that was adopted to support decision-taking during Summer 2022.
- 3.17 The increasing importance of biodiversity in place-making has generated the need for new guidance that sets out how the Borough Council implements net-gain, and where necessary off-setting through decision-taking. The guidance will support the objectives of the proposed Local Plan policy EV6 Conserving and Enhancing Biodiversity and Geodiversity.
- 3.18 The introduction of the new Biodiversity SPD will be informed by the enactment of the Environment Act 2021, which came into force on the 12 February 2024. The Act is an important milestone for the preparation of the new SPD as it will require mandatory biodiversity net gain, introduce statutory environmental targets, and set out the future of retained EU Law.
- 3.19 The third proposed document is the Planning Obligations SPD, this will provide guidance on the basket of planning obligations involved in mitigating development and how the Borough Council will work with other stakeholders to secure financial contributions. The document will also consider how to manage the obligations basket where viability is an issue, giving guidance on prioritisation.
- 3.20 A reasonable timetable milestones for progressing the new SPDs are:

-
- Initial drafting/ targeted consultation Winter 2023- Autumn 2024

- Local Plan adoption November/ December 2024
- Public Consultation Winter 2024/25
- Adoption -Spring 2025

Biodiversity SPD

- Initial drafting Summer 2024
- Local Plan adoption November / December 2024
- Environment Act enactment November 2024
- Public Consultation Early 2025
- Adoption Spring 2025

Planning Obligations SPD

- Initial drafting March – December 2024
- Local Plan adoption November/ December 2024
- Public Consultation early 2025
- Adoption Spring 2025

Statement of Community Involvement

3.21 A Statement of Community Involvement (SCI) sets out how a Council intends to consult and involve the community in the preparation and review of local development documents and in development management decisions. The Charnwood SCI was adopted in January 2021. The latest version of the SCI is informed by experiences gained during the pandemic. These include the potential for hybrid mechanisms for consultation and engagement with residents and communities; such as the optimal use of virtual platforms. The Borough Council will continue to use such experiences to inform how it effectively engages with residents and communities to ensure that such engagement is inclusive and safe.

Neighbourhood Development Plans

3.22 The Localism Act makes provisions for Neighbourhood Development Plans to be prepared. More commonly referred to simply as Neighbourhood Plans, they are a community-led document initiated through a Parish/Town Council or Neighbourhood Forum and ultimately adopted by the Council as part of the development plan.

3.23 Several parishes have or are in the process of producing Neighbourhood Plans. The Council provides support to Neighbourhood Forums to help them prepare these plans and will work with Town and Parish Councils and other designated groups to accommodate this work within the existing and emerging policy framework. This Local Development Scheme does not prescribe a timetable for those documents as they are community led by the appropriate Neighbourhood Forum and not Charnwood Borough Council. However, within the period covered by this Local Development Scheme significant work is anticipated for at least one Neighbourhood Plan for Anstey. This plan has the potential to join the Neighbourhood Plans for Cossington, Barrow upon Soar, Queniborough, Quorn, Rearsby, Rothley, Sibley, The

Wolds Villages, Thurcaston and Cropston, Thrussington and Woodhouse as being 'made' by the Council and forming part of the development plan for the relevant parish area.

- 3.24 Due to the external community-led nature of neighbourhood plan production, the project management of the Borough Council's involvement can become reactionary, which may introduce risks in relation to available resources. The Borough Council will seek to manage such risks by maintaining good communications with the existing and potential neighbourhood forums to ensure that there is appropriate intelligence on emerging and in-progress neighbourhood plans. Where possible the Borough Council will seek to manage neighbourhood planning processes to minimise conflict with its own plan-making activities.
- 3.25 Whilst the Borough Council has a duty to provide a degree of technical and administrative support to neighbourhood forums, these responsibilities do not normally require the publication of supporting evidence or guidance. However, it is possible that the Borough Council may be called-upon to prepare information that aids forums in their plan-making activities. For example, this may include the publication of indicative housing requirements or information on how localised, neighbourhood level, requirements could be prepared. Where such actions are necessary the Borough Council will ensure that the information is consistent and can be utilised by all forums as part of their plan-making activities.

4. Project Management and Resources

- 4.1. The Local Plan is managed day to day by the Group Leader of Plans, Policy and Place Making under the direction of the Head of Planning and Growth. The Local Development Framework Project Board (LDF Board) provides oversight and is made up of the Chief Executive, the Director Customer Experience, the Cabinet Lead Member for Planning and the Leader of the Council.
- 4.2. The Planning Policy Team provides the bulk of the Council's resource to progress the Local Plan but specialist expertise is drawn from across the Plans, Policies and Place-making Group and elsewhere across the Service when required. The close relationship between the Local Plan and the Council's corporate priorities allows additional support to be drawn from across the Council on specific corporate activities.
- 4.3. Budgetary provision is sought on an annual basis based on the Service Delivery Plan and Local Development Scheme programme. Specific costs relating to the submission of documents and the Examination process are identified in the Council's Medium Term Financial Plan.
- 4.4. The challenge of delivering growth is recognised. The Council is delivering the Local Development Scheme in a project managed environment, supported by appropriate resources.

5. Risk Assessment

5.1. An assessment has been carried out of the factors that could affect the ability of the council to deliver the Local Plan in accordance with the indicated programme. Actions to manage these risks have been identified.




Risk Identified	Likelihood/Impact	Management Action
Programme slippage	<p>Medium/Medium</p> <p>The Council is expected to meet the milestones in the Local Development Scheme. Failure to deliver against the key milestones will be damaging to the reputation of the local planning authority and the absence of up to date planning policies will hamper the realisation of the Council's vision and lead to unplanned developments in the Borough. The deadlines for preparing the Local Plan once submitted to the Planning Inspectorate for examination are set by the examination proceedings and not by the local planning authority.</p>	<p>The Local Development Framework Project Board will carefully monitor progress and give priority to achieving the key milestones set out in the Local Development Scheme.</p>
Staff resources	<p>Low/High</p> <p>The Planning Policy Team currently has a stable and experienced staff resource. However, staff changes will impact on the production of the Local Plan.</p>	<p>Ensure that sufficient staff resources with the necessary experience and expertise are available for the production of the Local Plan, supplementary planning documents and manage competing work priorities, utilising agency resources as required</p>
Financial resources	<p>Low/High</p> <p>Sufficient financial resources are required to prepare the Local Plan and supplementary planning documents including for consultancy support, consultation and the examination process.</p>	<p>Ensure the Local Development Scheme informs the council's Medium Term Financial Plan.</p>
Competing work priorities	<p>High/Medium</p> <p>The Planning and Growth Service is involved in a wide range of spatial policy work. Work to implement the Core Strategy, engage and support</p>	<p>The high priority of the Local Plan is recognised and at certain times other work will have to take a much lower priority. Where this is not possible consideration is given</p>

Risk Identified	Likelihood/Impact	Management Action
	the Strategic Growth Plan, Neighbourhood Plans and any major unplanned developments will weigh heavily on staff resources especially with respect to appeals.	to outsourcing work to other local planning authorities or consultants.
Level of public interest cause delays	Medium/High Public interest in the Local Plan has been high during previous consultations.	Resources are drawn from across the Planning and Regeneration Service at appropriate times to ensure representations are dealt with.
Lack of capacity of statutory agencies to respond and/or engage	Low/High Decisions taken nationally to change the resources of statutory agencies, and their capacity to manage local plan consultations and other work, may cause delays to the programme	The Local Development Scheme provides forward notice of the council's Local Plan programme. Maintain contact with key agencies to minimise prospect of slippage
Change in national policy/legislation	Medium/High Changes to the statutory process or new substantive policy which affects the content and direction of local policy preparation and decisions may cause delays to the programme.	The Council will continue to monitor legislative changes following on from the Levelling Up and Regeneration Act, which seeks to introduce wide-ranging changes to national planning policy and the planning system. Where opportunities present themselves the Borough Council will engage in consultation and when appropriate lobby Government for changes that will benefit plan-making and decision-taking across the Borough. Where changes are introduced, the Local Development Scheme will be amended accordingly to reflect new processes.
Slippage in strategic evidence/planning or Duty to Cooperate Matters	Medium/High Strategic evidence for homes, jobs and transport will help define the relationship between Charnwood and the wider housing market area and the role of the Charnwood	The Council will be represented in this strategic work and will carefully monitor and give priority to managing any impacts on the key milestones set out in the Local Development Scheme. A

Risk Identified	Likelihood/Impact	Management Action
	Local Plan. Any delays to this strategic work may cause Duty to Cooperate issues and cause delays to the programme.	Statement of Common Ground has been prepared with the other authorities in the HMA.

6. Programme Chart

	2024												2025												2026											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Charnwood Local Development Documents																																				
New Local Plan																																				

- KEY:**
- Hearing Sessions 
 - Inspector's Report Published 
 - Adoption 

Appendix A: Charnwood Local Plan and Supporting Documents



Appendix B: Local Plan Profile

Overview	
Title	Charnwood Local Plan
Role and content	<p>Sets out the strategic policies to deliver the Council's vision for Charnwood up to 2037 within the strategic framework set by the Strategic Growth Plan 2011 - 2050</p> <p>Addresses the spatial implications of strategies prepared by other key bodies including the Strategic Growth Plan for Leicester and Leicestershire to be prepared jointly by the local authorities for the area.</p> <p>Identifies land use sites needed to meet development needs to 2037.</p> <p>Sets out specific criteria against which planning applications will be considered.</p> <p>Provides land use designations for the protection and management of natural resources.</p> <p>Includes a proposals map on ordnance survey base to identify specific policies and proposals for development or use of land.</p>
Coverage	Borough wide
Status	Development Plan Document
Chain of Conformity	In accordance with legislation, case law and national planning policies.

Timetable	
Start	April 2016
Scoping and Issues (Regulation 18 ²)	July/August 2016
Draft plan consultation	November 2019
Publication (Pre-Submission Consultation) (Regulation 19)	July 2021
Submission (Regulation 22)	December 2021
Examination hearings (Regulations 23 and 24)	February 2024 (final sessions)
Adoption and publication of the DPD (Regulation 26)	November/ December 2024

² In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012

Management arrangements	
Organisational Lead	Head of Planning and Growth
Lead Officer	Group Leader Plans, Policies and Place-making
Management Arrangements	LDF Project Board; Cabinet and Full Council; Growth Advisory Group
Resources required	Charnwood Senior & Core Leadership Team; Planning and Regeneration Service; Housing Service; Neighbourhood Services; Open Space and Waste Service; Leisure and Culture Service; Finance and Property Services; Strategic Support Service; Leicestershire County Council including Highway Authority and Education Authority; Leicester City Council including Highway Authority and Education Authority.
Community and Stakeholder involvement	Parish and Town Councils, partner organisations, and others as identified in the Regulations and the Statement of Community Involvement.
Monitoring and review	Authority Monitoring Report

Appendix C: Glossary of Terms

Authority Monitoring Report (AMR) (formerly the Annual Monitoring Report)	An annual document that reports the progress made on plan preparation compared to the Local Development Scheme and the delivery of local plan policies including housing and employment delivery.
Core Strategy	A statutory planning document setting out the spatial vision and strategy for the Borough including key policies, proposals and strategic allocations to deliver the vision.
Development Plan Document (DPD)	Statutory documents prepared by the local planning authority with rigorous community involvement and consultation. They are subject to an examination in public by an independent Planning Inspector appointed by the Secretary of State.
Development Plan	Any adopted Development Plan Documents make up the Development Plan. Under the Planning Acts the Development Plan is the primary consideration in deciding planning applications.
Local Development Framework (LDF)	A binder of documents that provide the planning policies for the area.
Local Development Scheme (LDS)	A document that outlines the Council's three-year programme for preparing the Local Development Framework.
Local Plan	The plan for the development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies or other planning policies, which under the regulations would be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.
Neighbourhood Development Plan	The Regulatory title for a planning document which may be initiated and prepared by Parish and Town Councils or Neighbourhood Forums.

	Following robust consultation, independent examination and a local referendum they become 'made' (essentially adopted) by the Council as part of the statutory development plan. They are generally referred to as Neighbourhood Plans and must be prepared in general conformity with the Local Plan.
Spatial planning	A more comprehensive approach to town planning than simple 'land-use' planning, it coordinates the development and use of land with other policies and programmes to benefit places and how they function.
Statement of Community Involvement (SCI)	A document outlining the approach of the authority to involving the community in preparing planning policy and considering significant planning applications.
Strategic Growth Plan	A non-statutory planning document that sets out the spatial planning framework for Leicester and Leicestershire.
Supplementary Planning Documents (SPD)	Documents that provide guidance on how to use and interpret planning policies when developing proposals or taking decisions.
Sustainability Appraisal (SA)	An appraisal of the social, economic and environmental implications of a strategy, policies and proposals. Will ensure that proposals contribute to the achievement of sustainable development.
Sustainable development	Meeting our own needs without prejudicing the ability of future generations to meet their needs.

26 June 2024
Response on behalf of Redrow - 26 June 2024



Planning Historic and Natural Environment
Chief Executive's Department
Leicestershire County Council
Glenfield, Leicester
LE3 8RA

David Bainbridge
E: david.bainbridge@savills.com
DL: +44 (0) 1865 269053

By email only to: planningobligations@leics.gov.uk

Wytham Court
11 West Way
Oxford OX2 0QL
T: +44 (0) 1865 269 000
F: +44 (0) 1865 269 001
savills.com

Dear Sir / Madam

Leicestershire County Council Planning Obligations Policy Refresh Response on Behalf of Redrow

I write to provide this response to the above consultation on behalf of my client Redrow.

Background

Across nearly 50 years and over 120,000 homes, Redrow have earned a unique reputation for building premium houses and thriving communities.

Redrow has land interests across Leicestershire including at Leicester, Lubbethorpe, Sileby, East Goscote and Hugglescote.

We welcome the opportunity to consider and comment on the proposed refresh of Leicestershire County Council's Planning Obligations Policy.

We have considered the Supporting Guide of May 2024 which is found at:

<https://www.leicestershire.gov.uk/have-your-say/current-engagement/planning-obligations-policy>

We note the online survey which we intend to complete but for ease of reference we have prepared this response letter.

Our response covers the approach to the proposed refresh including all areas relevant to the planning for major and strategic scale development in Leicestershire.

Questions within the online survey are quite high level for example asking respondents to rank importance of areas of contributions and to what extent respondents agree or disagree with the current proposals to update the planning obligations policy guide.

There is no objective yardstick for the options ranging from strongly agree to strongly disagree as well as neither agree or disagree and don't know.

Whilst the survey approach will allow for a potentially neat quantification of the responses it does not allow for degrees or shades of responses.



National Legislation, Policy and Guidance on Planning Obligations

The background in the supporting guide refers to bringing the planning obligations policy up to date including on the grounds of change to the National Planning Policy Framework (NPPF). There is no explanation of which of the NPPF changes are considered relevant for this refresh.

The current Leicestershire County Council Planning Obligations Policy is dated July 2019 and makes reference to the 2019 version of the NPPF. The policy guidance for planning conditions and planning obligations was and remains under section 4 on decision-making and development contributions for plan-making is covered under section 3. The substance of the policy guidance has not changed and so it would be relevant to know exactly what aspects of changes to the NPPF are relevant for this proposed refresh.

In the latest version (December 2023) of the NPPF, paragraph 57 on planning obligations remains unchanged, as follows:

“57. Planning obligations must only be sought where they meet all of the following tests²⁴:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.”

Footnote 24 states: “Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.”

We consider it is appropriate to refer to the December 2023 version of the NPPF, to the planning practice guidance on planning obligations and also to the 2010 Community Infrastructure Levy Regulations (as amended).

The proposed refresh covers the entire county of Leicestershire, but it does not define the existing position in respect of local policy and/or procedure for planning obligations within parts of the County.

An example of this is Melton Borough where there is a level of agreement over guidance on how infrastructure and planning obligations related policies in the Melton Local Plan should be interpreted and applied. It is not explained in this consultation what will happen with local arrangements other than to state that the consultation does not cover planning obligation requests made by the Leicestershire local planning authorities.

Why Are Planning Obligations Important?

The explanation under this heading in the supporting guide does not accurately reflect the NPPF wording on planning obligations stated at paragraph 57 and quoted above. For example, the description of ‘fair and reasonable’ states the word ‘proportional’ in the supporting guide which is not found in the policy guidance and so this must be corrected.

We suggest there is greater consideration given to and explanation of the planning practice guidance on planning obligations.

For example, under the heading on ‘what are planning obligations’ it should be stated that planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.

Why an Up-to-Date Policy Matters?

Whilst we do not disagree with the bullet points set out in the supporting guidance, there is more that should be said on the approach to planning obligations.

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.

This is absent from the supporting guide explanation and should be covered in full.

The supporting guide should cover the following matters which are also currently absent from the consultation version:

- Circumstances where contributions under planning obligations will not be sought
- The evidential basis for planning obligations
- Scope for pooling of planning obligations to fund infrastructure (the 2019 policy still refers to a pooling restriction or no more than five planning obligations)
- Sources of funding for infrastructure for relevant infrastructure provision separate from planning obligations
- Approach to negotiating planning obligations
- Whether there is any locational and/or local planning authority variations in the County
- Approach to development viability
- Provision of a standard template for planning obligations
- Resourcing of and timescales for negotiating and concluding planning obligations
- Monitoring of and reporting on planning obligations and infrastructure delivery, including production of an infrastructure funding statement

Areas of Infrastructure Provision

The following areas of infrastructure provision are covered by the supporting guide, comprising a summary of 2019 policy and 2024 policy:

- Adult Social Care
- Household Waste and Recycling Centres
- Education
- Early Years Education
- Highways and Transportation
- Sustainable and Active Travel
- Libraries
- Biodiversity Net Gain
- Monitoring Fees (not including Biodiversity Net Gain Monitoring Fees)

The online survey allows for ranking of agreement or otherwise to the proposed updates and for related comments. Our responses below looks to follow this approach with the relevant option stated, followed by an explanation of our position on the relevant area.

Adult Social Care

Tend to Agree

The proposal is to seek provision of new dwellings designed to meet the needs of potential occupants, especially those requiring adult social care, instead of seeking financial contributions.

We tend to agree with this direction of travel, but we have concerns about the absence of any assessment of the level or scale of need and the absence of any assessment of the impact on delivery of residential development should such a change be made.

The NPPF provides policy guidance on the planning for new homes, and this should be followed on a county-wide level but also at the individual local planning authority level.

In this regard paragraph 63 of the NPPF is relevant, which states:

“63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers²⁸; people who rent their homes and people wishing to commission or build their own homes²⁹.”

The footnotes referred to cover planning policy for traveller sites and self build and custom build housing which are less relevant to the consideration of adult social care but overall, the NPPF policy guidance is relevant for the proposed approach which will impact on evidence gathering and policy formulation and development by plan-making authorities in Leicestershire.

Overall, whilst we tend to agree with the approach of moving away from seeking financial contributions, we consider more work is required with partner authorities on the suggestion of seeking direct provision as part of new housing development through preparation of new policy within local plans.

Household Waste and Recycling Centres

Tend to Disagree

The approach includes an increased rate of financial contribution per dwelling without giving details of the amounts or any impact assessment of increasing contributions. The proposal seems to continue on a blanket approach without assessing the evidence of need, demand or to assess what future recycling might result in and hence we tend to disagree with the approach.

Education

Strongly Disagree

Whilst we agree with the proposal to review the cost per pupil place on an annual basis we do not agree with the blanket approach of assuming that all existing schools are at 100% capacity (fully occupied) at the point the local planning authority consults with the County Council, and a 100% request is made using an updated ‘cost per pupil place multiplier’.

This does not sit comfortably within the planning policy guidance that planning obligations must only be sought where they meet the relevant tests including the test that they are necessary to make the development acceptable in planning terms.

A consultation response which assumes a financial contribution as planning obligation is required can lead to avoidable and sometimes drawn-out negotiations involving the local planning authority, the County Council and planning applicants. We suggest that an assessment of the relevant position on education capacity is undertaken to inform the relevant consultation response including forward projections involving committed but yet to be delivered development.

The approach to reassessing contributions should become less relevant if a location specific tailored response is provided. Reassessing contributions as proposed presents additional resource requirement and risk to parties involved and should be avoided.

In respect of the Developer-Led Construction, the proposed policy emphasizes that developers should take the lead in building new schools (following local authority specifications) wherever possible. We are relatively neutral on this approach as we would like to see further detail of the intention here and also an explanation as to what exemptions or alternative provision might look like.

We do not agree with the approach of indexation back to 2021 despite the fact that this policy refresh might be applied to new development that is some time away from being consented and delivered. We request inclusion of appropriate wording of indexation based upon the age/date of the costs provision which should allow for any future updating in the costs and hence the year for indexation.

Overall, we strongly disagree with the approach to education in the supporting guide albeit in the context of wider concerns we have in respect of education provision arising from new housing development.

Early Years Education

Strongly Disagree

We do not agree with the proposed higher yield rates or reduced thresholds, because of the absence of evidence on these and the absence of any assessment of the impact of bringing in such changes on the delivery of new homes.

In respect of the Developer-Led Construction, the proposed policy emphasizes that developers should take the lead in building new early years facilities (following local authority specifications) wherever possible. We are relatively neutral on this approach as we would like to see further detail of the intention here and also an explanation as to what exemptions or alternative provision might look like.

Overall, we strongly disagree with the approach to early years education in the supporting guide albeit in the context of wider concerns we have in respect of education provision arising from new housing development.

Highways and Transportation

Strongly Disagree

The proposed changes are in danger of not meeting the tests for planning obligations due to the lack of evidence and uncertainty over delivery of infrastructure.

Whilst acknowledging the County Council Cabinet's decision in November 2022, this is not necessarily supported in that it limits the options for delivery of highways and transportation infrastructure.

The proposal to update costs where the County Council chooses to deliver infrastructure to reflect the actual cost of delivery presents uncertainty and risk.

The approach to highways and transportation matters does not appear to be clear or consistent across the County of Leicestershire. For example, the County Council is seeking in effect a tariff approach for new development under the emerging Charnwood Borough Local Plan (which remains at examination).

On 10 February 2023, Leicester County Council Cabinet met to consider a Report of the Council's Chief Executive which recommended an 'interim approach' to securing developer contributions for, and managing development in respect of, highway needs, pending the adoption of Policies INF1 and INF2 of the Charnwood Local Plan. The Report was accompanied by an Interim Transport Contributions Strategy for Developments in Charnwood District [sic].

The Cabinet Report stated that:

"The Strategy has been prepared in response to ongoing development pressures across Charnwood. The purpose of the Strategy is to provide a policy basis for how the Council can seek transportation developer contributions towards the local plan mitigation package in advance of an adopted plan and/or associated detailed area transport strategies to be developed in support of this, including setting out the broad approach to implementation of the strategy.

The Strategy said that:

"The document will form the LHA's basis for securing developer contributions across Charnwood District towards cumulative and cross-boundary transport improvements....

and

For the avoidance of doubt, this document does not cover site specific and more localised issues to a site (e.g. such as the creation of new or improvements to existing points of site access or the need for any site specific highway mitigation measures); the need to address any such issues would be in addition to any requirement for a contribution to be made under this strategy."

The strategy identifies highway schemes, concepts for mitigation and cost estimates within 3 area-based transport strategies for Charnwood Borough.

The sums being sought by Leicestershire County Council are significant, being:

- Loughborough and Shepshed - £13,857.50 per dwelling
- North of Leicester - £35,778.93 per dwelling
- Soar Valley - £9,699.08 per dwelling

This is not mentioned in this consultation and yet it represents a significant shift in policy for only part of the County and without any assessment of evidence or impact of the proposed change.

Overall, we strongly disagree with the approach to highways and transportation which we consider is incomplete due to the absence of mention of the tariff approach proposed in Charnwood Borough (and possibly elsewhere) and is not underpinned by evidence or assessment of the impact of the proposed changes.

Sustainable and Active Travel

Strongly Disagree

The proposed changes, including prioritising mode shift, changes to requests for contributions to sustainable transport and active travel and increased monitoring fees are not explained in any detail and can only be seen as adding additional cost to development without any evidence on need or assessment on impact and hence we strongly disagree with the approach in this context.

Libraries

Strongly Disagree

The proposed changes, including increase contributions are not explained by any evidence or impact assessment and there is no explanation on the wider policy approach to library provision by the County Council will has resulted in the closure of libraries. This presents a risk of seeking financial contributions as planning obligations which will not deliver what is intended and therefore, we strongly disagree with the approach in this context.

Biodiversity Net Gain

Neither Agree Nor Disagree

We consider it is not possible to provide a more definitive position due to the absence of a preferred approach. The consultation states that the County Council is still learning about the full impact of BNG becoming mandatory.

The statutory framework for biodiversity net gain has been designed as a post-permission matter to ensure that the biodiversity gain objective of achieving at least a 10% gain in biodiversity value will be met for development granted planning permission. Once planning permission has been granted, unless exempt, a Biodiversity Gain Plan must be submitted and approved prior to the commencement of that development.

This Plan is the mechanism to ensure that the biodiversity gain objective is met and in particular:

- the post-development biodiversity value of the development's onsite habitat is accurate based on the approved plans and drawings for the development;
- any offsite biodiversity gains have been registered and allocated to the development; and
- biodiversity credits, if they are necessary for the development, have been purchased.

We suggest that the approach to biodiversity net gain as set-out under legislation, national planning policy and national planning practice guidance is followed by local planning authorities across Leicestershire. There is no justification for an emerging policy direction to vary from or seek to amend the approach.

Monitoring Fees (not including Biodiversity Net Gain Monitoring Fees)

Strongly Disagree

The proposal is a continuation of a blanket approach but with increased cost and introduction of indexation. There is no evidence of assessment of the system as it has been operated to date, there is no explanation of what indexation will be used and there is no explanation of how case-by-case decisions might be taken to the waiving of fees. This presents uncertainty and risk to development and therefore we strongly disagree with the approach.

Wider Comments

The supporting guide does not set out how the County Council will go about assessing the responses and reporting on its response to the consultation responses.

The supporting guide does not set out how the County Council will go about engaging with the relevant local planning authorities or wider stakeholders in the policy formulation and infrastructure delivery for planning obligations for new development.

We would request further clarity as to where the County Council considers it appropriate to apply planning conditions and where it considers it is appropriate to apply planning obligations.

Paragraph 55 of the NPPF states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

The responsibility is on the Council to define what can be addressed through planning condition in the first instance and seek to minimise areas for planning obligations.

We request commitment by the County Council to provide applicants with a statement assessing the compliance of requested planning obligations, under Regulation 122 of the Community Infrastructure Levy Regulations. These should also be encouraged to be prepared by Leicestershire County Council. The Regulation 122 Statements should be provided to applicants in good time to enable discussions on heads of terms for planning obligations, ahead of preparation of a draft of the planning obligations.

Finally, there is no explanation on any transitional arrangements for changes to policy on planning obligations or what might happen to amendments to existing planning obligations.

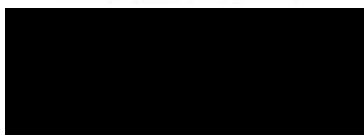
Conclusion

We are grateful for the opportunity to consider and comment on the proposed refresh of Leicestershire County Council's Planning Obligations Policy.

We have raised concerns and queries on much of the proposed changes and policy direction which we consider must be explored in detail and reflected in an update to the proposal for further engagement by Leicestershire County Council.

We would be pleased to discuss any aspect of these representations in more detail if this would be of assistance to the Council and we look forward to hearing from you.

Yours faithfully



**David Bainbridge MRTPI
Planning Director**

cc. Clients

Charnwood Local Plan 2021 -2037 Housing Trajectory

Policy Ref	CHARNWOOD BOROUGH	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	TOTALS	Notes in comparison to Exam 11 (added by Nov/18 August 2024)	# of years delay
		16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1			
	Fast completions (net)	792	661	821														2274		
	Commitments - Leicester Urban Area	14	38	41	15	15	15	4										142		
	Commitments - Loughborough Urban Centre	344	109	134	55	127	45	1		15	15							845		
	Commitments - Shepshed Urban Settlement	169	136	78	43	46	32	29		27	26							586		
	Commitments - Service Centres (A)	251	251	193	197	121	134	111	75	40	20							1393		
	Commitments - Other Settlements	6	17	24	106	42	155	190	67	81								688		
	Commitments - Small Villages or IB	8		1	8	1												24		
	TOTAL ALL - Estimated complet	792	559	469	424	352	381	335	142	163	61	0	0	0	0	0	0	3678		
	ALLOCATIONS Leicester Urban Area	0	0	0	5	26	110	125	257	299	322	220	200	170	120	100	100	2054		
HA1	Land South East of Syston							25	75	100	100	100	100	100	100	100	100	900	Reduction by 60 units in the plan period and delayed by 2 years	2 years
HA2	Barkby Road, Syston								10	40	40	40	40	30	0	0		200	Reduction by 70 units and delayed by 4 years	4 years
HA3	Land north of Barkby Road, Syston					15	40	40	40	40	20	0						195	Delayed by 1 year	1 year
HA4	Quealborough Lodge, Syston						40	40	40	5	0							125	Delayed by 2 years	2 years
HA5	Land at Melton Road, Syston				5	11	10											26	Delayed by 2 years	2 years
HA6	Brook Street, Syston										15							15	Delayed by 1 year	1 year
HA7	Land off Barkby Thorpe Lane, Thurleston						0	40	40	40	40	10	20					180	Increased by 75 and delayed by 4 years	4 years
HA8	Woodgate Nurseries, Barkby Lane, Thurleston							12	24	10								46	Increased by 7 delayed by 4 years	4 years
HA9	Works opposite 46 Brook Street, Thurleston										7							7	Delayed by 1 year	1 year
HA10	Works adjacent 46 Brook Street, Thurleston										5							5	Delayed by 1 year	1 year
HA11	Rear of Manor Medical Centre, Melton Road, Thurleston										20							20	Delayed by 1 year	1 year
HA12	Land at Gynsill Lane & Anstey Lane, Glenfield								40	40	40	40	40	20				260	Delayed by 4 years	4 years
HA13	Park View Nursery Site off Gynsill Lane, Glenfield						20	20										40	Increased by 10 and delayed by 3 years	3 years
HA14	Land off Cliffe Road/Henson Close, Woodford								0	10	25							35	Delayed by 6 years	6 years
	ALLOCATIONS Loughborough Urban Centre	0	0	0	0	7	73	140	371	294	313	343	290	196	169	126	0	2322		
HA15	Land south of Loughborough						25	50	45	90	90	90	90	90	90	63		723	Delayed by 1 year	1 year
HA16	Labourum Way, Loughborough						33	50	50	50	50	50	50	39				422	Delayed by 1 year	1 year
HA17	Moat Farm, Land south west of Loughborough										25	40	40	40	20			265	Delayed by 1 year	1 year
HA18	Land to r/o Snells Nook Lane, Loughborough						0	40	40	40								120	Delayed by 3 years	3 years
HA19	Park Grange Farm, Newstead Way, Loughborough				0	15												15	Brought forward into the plan period	
Charnwood Local Plan 2021 -2037 Housing Trajectory																				
Policy Ref	CHARNWOOD BOROUGH	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	TOTALS		
HA20	Land off Parklands Drive, Loughborough								20	10								30	Delayed by 3 years	3 years
HA21	Part of Baxter Gate Opportunity Site, Loughborough										100	110						210	Delayed by 1 year	1 year
HA22	Devonshire Square, Loughborough									39								39	Delayed by 4 years	4 years
HA23	Market Street, Loughborough					7				50	15							72	Increased by 9 - delay by 3 years	3 years
HA24	Council Offices, Southfield Road, Loughborough											53	110					163	Delayed by 1 year	1 year
HA25	138-144 Knightthorpe Road, Loughborough									15								15	Increased by 2 and delayed by 6 years	6 years
HA26	Former Limehurst Depot, Loughborough						0	0	216									216	Increased by 88, brought forwards by 1 year	1 year
HA27	Former Main Post Office, Sparrow Hill, Loughborough													16				16	no change	
HA28	Land off Derby Square, Loughborough															43		43	no change	
HA29	Southfields Road Car Park, Loughborough										33							33	Delayed by 1 year	1 year
	ALLOCATIONS Shepshed Urban Settlement	0	15	48	50	81	116	222	228	216	188	193	208	208	155	88	0	2016		
HA30	Land off Fairway Road, Shepshed								40	40	20							100	Delayed by 3 years	3 years
HA31	Land north of Ashby Road, Shepshed			0	50	50	50	50	10									210	brought into the plan period	
HA32	Land off Tickow Lane (south), Shepshed							44	44	44	44	44	44	44	17			325	Increased by 25 units and delayed by 3 years	3 years
HA33	Land at Oakley Road, Shepshed									30	40	40	40	14				204	Increased by 71 units and delayed by 5 years	5 years
HA34	Land off Tickow Lane (north), Shepshed							44	44	44	44	44	44	44	42			394	Delayed by 3 years	3 years
HA35	Land North of Hallamford Road and West of Shepshed								10	40	40	40	40	40	40			250	Delayed by 4 years	4 years
HA36	20 Moscow Lane, Shepshed								25	24								49	Delayed by 2 years	2 years
HA37	Land rear of 62 Iveshead Road, Shepshed		15	48														63	brought into the plan period	
HA38	Land to rear of 54 Iveshead Road, Shepshed									5								5	Delayed by 1 year	1 year
HA39	Land fronting Ashby Road & Ingberly Road, Shepshed											25	40	40	40	6		151	Delayed by 1 year	1 year
HA40	Land to the west of the B591/Ingberly Rd & no					31	50	50	50	19	0	0						200	Increased by 26 and delayed by 2 years	2 years
HA41	Land south of Ashby Road Central, Shepshed						16	34										50	Increased by 1 unit and delayed by 3 years	3 years
HA42	32 Charnwood Road, Shepshed							0	15									15	Delayed by 5 years	5 years
	ALLOCATIONS Service Centres - Anstey, Barrow upon Soar	0	41	127	0	0	52	353	340	319	230	189	119	90	90	28	0	1978		
HA43	Land west of Anstey						0	65	90	90	90	90	90	90	90	19		714	Increased by 114 and Delayed by 4 years	4 years
HA44	Fairhaven Farm, Anstey						22	25										47	Delayed by 1 year	1 year
HA45	Land to south of Melton Road, Barrow upon Soar							40	40	40	10							130	Delayed by 2 years	2 years
HA46	Land off Melton Road, Barrow upon Soar							40	40	40	15							135	Increased by 15 and delayed by 2 years	2 years

Policy Ref	CHARNSWOOD BOROUGH	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	TOTALS		
HA47	Land adjoining 84 Melton Road, Barrow upon Soar																	18	Delayed by 1 year	1 year
Charnwood Local Plan 2021 - 2037 Housing Trajectory																				
HA48	Land off Willow Road, Barrow upon Soar						10	40	40	40	40	40	10					220	Increased by 5 and delayed by 1 year	1 year
HA49	Land off Cotes Road, Barrow upon Soar							65	75	50	30	0						220	Delayed by 1 year	1 year
HA50	East of Loughborough Road, Quorn	41	64	0														105	brought into the plan period	
HA51	Land south of Rothley						0	25	15									40	Delayed by 3 years	3 years
HA52	971 Loughborough Road, Rothley														9			9	No change	
HA53	Land off Barnards Drive, Sileby						20	40	40	40	40	40	8					228	Delayed by 3 years	3 years
HA54	Homefield Road, Sileby			55														55	Proportion of completions brought forwards two years	
HA55	Rear of The Maltings site High Street, Sileby						0	13										13	Delayed by 4 years	4 years
HA56	Land off Kendal Road (South of Butler Way and									5	19							24	Delayed by 1 year	1 year
HA57	36 Charles Street, Sileby												11					11	No change	
HA58	9 King Street, Sileby				0					1								9	Brought into the plan period	
ALLOCATIONS Other Settlements																				
HA59	Land to rear of Derry's Garden Centre, Cossington						25	40	40	25								130	Increase by 6 and Delayed by 3 years	3 years
HA60	Land off Melton Road, East Goswote						0	0	36	60	60	60	40					256	Increase by 33 and Delayed by 5 years	5 years
HA61	Land to the rear of 89 Loughborough Road, Hathern						25		0									25	Decreased by 4 and Delayed by 3 years	3 years
HA62	The Leys, Hathern											6						6	Delayed by 1 year	1 year
HA63	Land off Zouch Road, Hathern			5	40		11											56	Increase by 6 Delayed by 1 year	1 year
HA64	Land at Threeways Farm, Queniborough							40	40	40	40							160	Increase by 60 and Delayed by 3 years	3 years
HA65	Land off Melton Road, Queniborough							40	40	5								85	Increase by 30 and Delayed by 3 years	3 years
HA66	Land off Gaddesby Lane, Rearsby						5	40	20									65	Increase by 18 and Delayed by 2 years	2 years
HA67	44 Hoby Road, Thrusington								26									26	Decreased by 4 and brought forwards one year	
HA68	Land off Old Gate Road, Thrusington						25	35										60	Brought forwards two years	
HA69	The former Rectory & Land at Thurcaston						5	14										19	Reduced by 12 and Delayed by 2 years	2 years
TOTAL ALL - Estimated completions		0	56	175	60	154	447	1049	1398	1258	1153	1011	857	664	534	342	100	9258		
LU2	WEST OF LOUGHBOROUGH SUE	14	65	51	66	210	250	250	250	250	250	250	250	250	250	250	250	2966	Reduced by 180 in the plan period - some delays in getting the numbers rolling.	
LU2	NORTH EAST OF LEICESTER SUE	32	112	150	150	200	200	200	200	200	200	200	200	250	250	250	250	2794	Similar picture to Exam 11	
LU3	DIRECTION OF GROWTH NORTH OF BIRS		106	191	222	250	249	170	150	120	120	100	100	90	82			1950	Delayed by 2 years	2 years
TOTAL ALL - Estimated completions		0	46	177	307	407	632	700	699	620	600	570	570	550	600	590	582	7650		
Windfall Allowance																				
Estimated total completions		792	661	821	791	913	1468	2147	2302	2104	1877	1664	1490	1277	1197	995	745	21216		
Estimated cumulative completions		792	1453	2274	3065	3978	5438	7585	9887	11991	13868	15512	17002	18279	19476	20471	21216	21216		
PLAN - Annual housing requirement		1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189	1189			
PLAN - Cumulative housing requirement		1189	2378	3567	4756	5945	7134	8323	9512	10701	11890	13079	14268	15457	16646	17835	19024	11.5		
Charnwood Local Plan 2021 - 2037 Housing Trajectory																				
Policy Ref	CHARNSWOOD BOROUGH	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	TOTALS		
	MONITOR - No dwellings above c.397	397	325	1293	1691	1967	1696	738	375	1290	1978	2433	2734	2822	2830	2636	2192			
	MANAGE - Annual housing requirement	1189	1215	1255	1288	1330	1368	1359	1271	1142	1065	859	702	506	248	-226	-1447			

Change from EXAM 58F

Five Year Housing Land Supply

The Planning Practice Guidance sets out two methods for incorporating any deficit in housing delivery into the calculation of the five year housing land supply. The Sedgefield Method, which deals with any deficit more quickly is the preferred method but local planning authorities can make a case for using the Liverpool Method. Calculations using both methods, and incorporating surpluses where appropriate, are set out below.

Sedgefield Method	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
5.01	5.57	5.95	6.28	6.71	7.17	7.66	7.93	7.73	
5 year requirement	5945	5945	5945	5945	5945	5945	5945	5945	
5 year requirement + deficit (-surplus)	7238	7636	7912	7641	6683	5570	4655	3967	3512
Revised 5 year requirement + 5%	7600	8018	8308	8023	7017	5849	4888	4165	3688
5 year completions	7613	8926	9890	10074	9417	8392	7485	6603	5704
Liverpool Method	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
5.63	6.39	6.89	7.06	7.06	7.00	7.10	7.32	7.73	
5 year requirement	5945	5945	5945	5945	5945	5945	5945	5945	
5 year requirement + deficit (-surplus)	6442	6650	6839	6793	6355	5711	5024	4297	3512
Revised 5 year requirement + 5%	6764	6982	7181	7133	6673	5996	5275	4512	3688
5 year completions	7613	8926	9890	10074	9417	8392	7485	6603	5704